

*B. Where can I get a copy of this document and other related information?*

The EPA has established a docket for designations for the 2015 ozone NAAQS under Docket ID No. EPA-HQ-OAR-2017-0223. All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, *e.g.*, confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue, NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the EPA Docket Center is (202) 566-1742.

An electronic copy of this notice is also available at <http://www.epa.gov/ozone-designations> along with other information related to designations for the 2015 ozone NAAQS.

## **II. Designations Requirements**

On October 1, 2015, the EPA signed a notice of final rulemaking that revised the 8-hour primary and secondary ozone NAAQS (80 FR 65292; October 26, 2015). Both standards were lowered from 0.075 parts per million (ppm) to a level of 0.070 ppm.

After the EPA establishes or revises a NAAQS pursuant to CAA section 109, the CAA directs the EPA and the states to begin taking steps to ensure that those NAAQS are met. The first step is to identify areas of the country that meet or do not meet that NAAQS. This step is known as the initial area designations. Section 107(d)(1)(A) of the CAA provides that, “By such date as the Administrator may reasonably require, but not later than 1 year after promulgation of

a new or revised national ambient air quality standard for any pollutant under section [109], the Governor of each State shall \* \* \* submit to the Administrator a list of all areas (or portions thereof) in the State” that designates those areas as nonattainment, attainment, or unclassifiable.

The CAA further provides, “Upon promulgation or revision of a national ambient air quality standard, the Administrator shall promulgate the designations of all areas (or portions thereof) \* \* \* as expeditiously as practicable, but in no case later than 2 years from the date of promulgation of the new or revised national ambient air quality standard. Such period may be extended for up to one year in the event the Administrator has insufficient information to promulgate the designations.” 42 U.S.C. § 7407(d)(1)(B)(i).

In the EPA guidance, “Area Designations for the 2015 Ozone National Ambient Air Quality Standards,” the EPA indicated it expected to complete the initial area designations by October 1, 2017, consistent with the statutory requirement that the EPA designate areas no later than 2 years following promulgation of a revised NAAQS.<sup>1</sup>

### **III. Withdrawal of Extension of Deadline for Promulgating Designations for the 2015 Ozone NAAQS**

In letters sent to states on June 6, 2017, and in a **Federal Register** notice published on June 28, 2017 (82 FR 29246), the EPA Administrator Scott Pruitt announced that he was using his authority under section 107(d)(1)(B)(i) of the CAA to extend by 1 year, to October 1, 2018, the deadline for promulgating initial area designations for the 2015 ozone NAAQS. At that time (i.e., in early June), it was not clear that the agency would be in the position to complete designations for all areas for the 2015 ozone NAAQS in accordance with the 2-year statutory

---

<sup>1</sup> Memorandum from Janet G. McCabe, Acting Assistant Administrator, to Regional Administrators, Regions 1-10. February 25, 2016.

deadline of October 1, 2017. For a variety of other NAAQS in the past, previous EPA Administrators have used the authority under section 107(d)(1)(B)(i) to take additional time to complete designations.<sup>2</sup> The Administrator decided to similarly invoke the extension with regard to designations for the 2015 ozone NAAQS.

The EPA has continued to discuss and work with states concerning designations, and now understands that the information gaps that formed the basis of the extension may not be as expansive as we previously believed. The EPA now intends to reassess whether there are areas with underlying technical issues, whether there are state designation recommendations that the EPA intends to modify, and whether for any area there is insufficient information to promulgate the designation. The EPA believes this reevaluation will help ensure that more Americans are living and working in areas that meet national air quality standards. The agency believes that there may be areas of the United States for which designations could be promulgated in the next few months. Therefore, the EPA is withdrawing its prior announced 1-year extension of the deadline for promulgating initial area designations for the 2015 ozone NAAQS, and the 2-year deadline for promulgating designations provided in section 107(d)(1)(B) of the CAA applies. The Administrator may still determine that an extension of time to complete designations is necessary, but is not making such a determination at this time.

---

<sup>2</sup> For the 2008 ozone NAAQS, *see* 75 FR 2936 (January 19, 2010); for the 2008 lead NAAQS, *see* 75 FR 71033 (November 22, 2010); for the 2010 sulfur dioxide NAAQS, *see* 77 FR 46295 (August 3, 2012); and for the 2012 fine particulate matter NAAQS, *see* 80 FR 2206 (January 15, 2015).

**Page 5 of 5 – Withdrawal of Extension of Deadline for Promulgating Designations for the 2015 Ozone National Ambient Air Quality Standards**

**LIST OF SUBJECTS IN 40 CFR PART 81**

Environmental protection, Air pollution control, National parks, Wilderness areas.

**AUG 02 2017**

\_\_\_\_\_  
Dated:

A handwritten signature in black ink, appearing to read "E. Scott Pruitt", is written over a horizontal line.

E. Scott Pruitt,  
Administrator.



**To:** Mathias, Scott[Mathias.Scott@epa.gov]; Oldham, Carla[Oldham.Carla@epa.gov]; Scott, Denise[Scott.Denise@epa.gov]; Koerber, Mike[Koerber.Mike@epa.gov]  
**From:** Bianco, Karen  
**Sent:** Wed 8/2/2017 10:15:55 PM  
**Subject:** Fwd: Signed - Ozone Extension Withdrawal  
Ozone Extension Withdrawal August 2 2017.pdf  
ATT00001.htm

Sent from my iPhone

Begin forwarded message:

**From:** "Knapp, Kristien" <Knapp.Kristien@epa.gov>  
**To:** "Flynn, Mike" <Flynn.Mike@epa.gov>, "Jackson, Ryan" <jackson.ryan@epa.gov>, "Bowman, Liz" <Bowman.Liz@epa.gov>, "Lyons, Troy" <lyons.troy@epa.gov>, "Dravis, Samantha" <dravis.samantha@epa.gov>, "Graham, Amy" <graham.amy@epa.gov>, "Bennett, Tate" <Bennett.Tate@epa.gov>, "Dunham, Sarah" <Dunham.Sarah@epa.gov>, "Gunasekara, Mandy" <Gunasekara.Mandy@epa.gov>, "Schwab, Justin" <schwab.justin@epa.gov>, "Bolen, Brittany" <bolen.brittany@epa.gov>, "Reeder, John" <Reeder.John@epa.gov>, "Brown, Byron" <brown.byron@epa.gov>  
**Cc:** "Grantham, Nancy" <Grantham.Nancy@epa.gov>, "Richardson, RobinH" <Richardson.RobinH@epa.gov>, "Hull, George" <Hull.George@epa.gov>, "Lewis, Josh" <Lewis.Josh@epa.gov>, "Burden, Susan" <Burden.Susan@epa.gov>, "Owens, Nicole" <Owens.Nicole@epa.gov>, "Rees, Sarah" <rees.sarah@epa.gov>, "Smith, Kristi" <Smith.Kristi@epa.gov>, "Bianco, Karen" <Bianco.Karen@epa.gov>, "Nickerson, William" <Nickerson.William@epa.gov>, "Curry, Bridgid" <Curry.Bridgid@epa.gov>  
**Subject:** Signed - Ozone Extension Withdrawal

A Federal Register notice announcing a withdrawal of the 1-year extension of the deadline for promulgating initial area designations for the ozone national ambient air quality standards was signed today. A copy of the signed notice is attached. Please let me know if you have any questions.

Thanks,

Kristien

Kristien Knapp

Special Assistant (OAR, OITA, OGC, OP)

Office of the Administrator

(202) 564-3277

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR PART 81**

**[EPA-HQ-OAR-2017-0223; FRL- ]**

**Withdrawal of Extension of Deadline for Promulgating Designations for the 2015 Ozone National Ambient Air Quality Standards**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Withdrawal of extension of deadline for promulgating designations.

**SUMMARY:** The Environmental Protection Agency (EPA) is announcing that it is withdrawing the 1-year extension of the deadline for promulgating initial area designations for the ozone national ambient air quality standards (NAAQS) that were promulgated in October 2015. Thus, unless and until the Administrator takes additional final action, the 2-year deadline for promulgating designations provided in the Clean Air Act (CAA) applies.

**DATES:** The deadline for the EPA to promulgate initial designations for the 2015 ozone NAAQS is October 1, 2017.

**FOR FURTHER INFORMATION CONTACT:** For questions regarding this action, contact Carla Oldham, Air Quality Planning Division, Office of Air Quality Planning and Standards, Mail Code C539-04, Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-3347; email address: [oldham.carla@epa.gov](mailto:oldham.carla@epa.gov)

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this action apply to me?*

Entities potentially affected by this action include state, local and tribal governments that would participate in the initial area designation process for the 2015 ozone standards.

*B. Where can I get a copy of this document and other related information?*

The EPA has established a docket for designations for the 2015 ozone NAAQS under Docket ID No. EPA-HQ-OAR-2017-0223. All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, *e.g.*, confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue, NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the EPA Docket Center is (202) 566-1742.

An electronic copy of this notice is also available at <http://www.epa.gov/ozone-designations> along with other information related to designations for the 2015 ozone NAAQS.

## **II. Designations Requirements**

On October 1, 2015, the EPA signed a notice of final rulemaking that revised the 8-hour primary and secondary ozone NAAQS (80 FR 65292; October 26, 2015). Both standards were lowered from 0.075 parts per million (ppm) to a level of 0.070 ppm.

After the EPA establishes or revises a NAAQS pursuant to CAA section 109, the CAA directs the EPA and the states to begin taking steps to ensure that those NAAQS are met. The first step is to identify areas of the country that meet or do not meet that NAAQS. This step is known as the initial area designations. Section 107(d)(1)(A) of the CAA provides that, “By such date as the Administrator may reasonably require, but not later than 1 year after promulgation of

a new or revised national ambient air quality standard for any pollutant under section [109], the Governor of each State shall \* \* \* submit to the Administrator a list of all areas (or portions thereof) in the State” that designates those areas as nonattainment, attainment, or unclassifiable.

The CAA further provides, “Upon promulgation or revision of a national ambient air quality standard, the Administrator shall promulgate the designations of all areas (or portions thereof) \* \* \* as expeditiously as practicable, but in no case later than 2 years from the date of promulgation of the new or revised national ambient air quality standard. Such period may be extended for up to one year in the event the Administrator has insufficient information to promulgate the designations.” 42 U.S.C. § 7407(d)(1)(B)(i).

In the EPA guidance, “Area Designations for the 2015 Ozone National Ambient Air Quality Standards,” the EPA indicated it expected to complete the initial area designations by October 1, 2017, consistent with the statutory requirement that the EPA designate areas no later than 2 years following promulgation of a revised NAAQS.<sup>1</sup>

### **III. Withdrawal of Extension of Deadline for Promulgating Designations for the 2015 Ozone NAAQS**

In letters sent to states on June 6, 2017, and in a **Federal Register** notice published on June 28, 2017 (82 FR 29246), the EPA Administrator Scott Pruitt announced that he was using his authority under section 107(d)(1)(B)(i) of the CAA to extend by 1 year, to October 1, 2018, the deadline for promulgating initial area designations for the 2015 ozone NAAQS. At that time (i.e., in early June), it was not clear that the agency would be in the position to complete designations for all areas for the 2015 ozone NAAQS in accordance with the 2-year statutory

---

<sup>1</sup> Memorandum from Janet G. McCabe, Acting Assistant Administrator, to Regional Administrators, Regions 1-10. February 25, 2016.

deadline of October 1, 2017. For a variety of other NAAQS in the past, previous EPA Administrators have used the authority under section 107(d)(1)(B)(i) to take additional time to complete designations.<sup>2</sup> The Administrator decided to similarly invoke the extension with regard to designations for the 2015 ozone NAAQS.

The EPA has continued to discuss and work with states concerning designations, and now understands that the information gaps that formed the basis of the extension may not be as expansive as we previously believed. The EPA now intends to reassess whether there are areas with underlying technical issues, whether there are state designation recommendations that the EPA intends to modify, and whether for any area there is insufficient information to promulgate the designation. The EPA believes this reevaluation will help ensure that more Americans are living and working in areas that meet national air quality standards. The agency believes that there may be areas of the United States for which designations could be promulgated in the next few months. Therefore, the EPA is withdrawing its prior announced 1-year extension of the deadline for promulgating initial area designations for the 2015 ozone NAAQS, and the 2-year deadline for promulgating designations provided in section 107(d)(1)(B) of the CAA applies. The Administrator may still determine that an extension of time to complete designations is necessary, but is not making such a determination at this time.

---

<sup>2</sup> For the 2008 ozone NAAQS, *see* 75 FR 2936 (January 19, 2010); for the 2008 lead NAAQS, *see* 75 FR 71033 (November 22, 2010); for the 2010 sulfur dioxide NAAQS, *see* 77 FR 46295 (August 3, 2012); and for the 2012 fine particulate matter NAAQS, *see* 80 FR 2206 (January 15, 2015).

**Page 5 of 5 – Withdrawal of Extension of Deadline for Promulgating Designations for the 2015 Ozone National Ambient Air Quality Standards**

**LIST OF SUBJECTS IN 40 CFR PART 81**

Environmental protection, Air pollution control, National parks, Wilderness areas.

**AUG 02 2017**

\_\_\_\_\_  
Dated:

A handwritten signature in black ink, appearing to read "E. Scott Pruitt", is written over a horizontal line.

E. Scott Pruitt,  
Administrator.

**To:** Norman Rave[Norman.Rave@usdoj.gov]; Jon.Lipshultz@usdoj.gov[Jon.Lipshultz@usdoj.gov]  
**From:** Bianco, Karen  
**Sent:** Wed 8/2/2017 10:11:38 PM  
**Subject:** Re: Signed - Ozone Extension Withdrawal

This is slightly changed from the last draft you saw, so we should do one more cross check of the filing to ensure its consistent.

And this can go to Seth.

Sent from my iPhone

> On Aug 2, 2017, at 6:09 PM, Bianco, Karen <Bianco.Karen@epa.gov> wrote:

>

> Here it is.

>

> Sent from my iPhone

>

> Begin forwarded message:

>

> From: "Knapp, Kristien" <Knapp.Kristien@epa.gov<mailto:Knapp.Kristien@epa.gov>>

> To: "Flynn, Mike" <Flynn.Mike@epa.gov<mailto:Flynn.Mike@epa.gov>>, "Jackson, Ryan"

> <jackson.ryan@epa.gov<mailto:jackson.ryan@epa.gov>>, "Bowman, Liz"

> <Bowman.Liz@epa.gov<mailto:Bowman.Liz@epa.gov>>, "Lyons, Troy"

> <lyons.troy@epa.gov<mailto:lyons.troy@epa.gov>>, "Dravis, Samantha"

> <dravis.samantha@epa.gov<mailto:dravis.samantha@epa.gov>>, "Graham, Amy"

> <graham.amy@epa.gov<mailto:graham.amy@epa.gov>>, "Bennett, Tate"

> <Bennett.Tate@epa.gov<mailto:Bennett.Tate@epa.gov>>, "Dunham, Sarah"

> <Dunham.Sarah@epa.gov<mailto:Dunham.Sarah@epa.gov>>, "Gunasekara, Mandy"

> <Gunasekara.Mandy@epa.gov<mailto:Gunasekara.Mandy@epa.gov>>, "Schwab, Justin"

> <schwab.justin@epa.gov<mailto:schwab.justin@epa.gov>>, "Bolen, Brittany"

> <bolen.brittany@epa.gov<mailto:bolen.brittany@epa.gov>>, "Reeder, John"

> <Reeder.John@epa.gov<mailto:Reeder.John@epa.gov>>, "Brown, Byron"

> <brown.byron@epa.gov<mailto:brown.byron@epa.gov>>

> Cc: "Grantham, Nancy" <Grantham.Nancy@epa.gov<mailto:Grantham.Nancy@epa.gov>>, "

> Richardson, RobinH" <Richardson.RobinH@epa.gov<mailto:Richardson.RobinH@epa.gov>>, "Hull,

> George" <Hull.George@epa.gov<mailto:Hull.George@epa.gov>>, "Lewis, Josh"

> <Lewis.Josh@epa.gov<mailto:Lewis.Josh@epa.gov>>, "Burden, Susan"

> <Burden.Susan@epa.gov<mailto:Burden.Susan@epa.gov>>, "Owens, Nicole"

> <Owens.Nicole@epa.gov<mailto:Owens.Nicole@epa.gov>>, "Rees, Sarah"

> <rees.sarah@epa.gov<mailto:rees.sarah@epa.gov>>, "Smith, Kristi"

> <Smith.Kristi@epa.gov<mailto:Smith.Kristi@epa.gov>>, "Bianco, Karen"

> <Bianco.Karen@epa.gov<mailto:Bianco.Karen@epa.gov>>, "Nickerson, William"

> <Nickerson.William@epa.gov<mailto:Nickerson.William@epa.gov>>, "Curry, Bridgid"

> <Curry.Bridgid@epa.gov<mailto:Curry.Bridgid@epa.gov>>

> Subject: Signed - Ozone Extension Withdrawal

>

> A Federal Register notice announcing a withdrawal of the 1-year extension of the deadline for promulgating initial area designations for the ozone national ambient air quality standards was signed today. A copy of the signed notice is attached. Please let me know if you have any questions.

>

> Thanks,

> Kristien

>

> Kristien Knapp

> Special Assistant (OAR, OITA, OGC, OP)



> Office of the Administrator  
> (202) 564-3277  
> <Ozone Extension Withdrawal August 2 2017.pdf>

**To:** Norman Rave[Norman.Rave@usdoj.gov]; Jon.Lipshultz@usdoj.gov[Jon.Lipshultz@usdoj.gov]  
**From:** Bianco, Karen  
**Sent:** Wed 8/2/2017 10:09:37 PM  
**Subject:** Fwd: Signed - Ozone Extension Withdrawal  
[Ozone Extension Withdrawal August 2 2017.pdf](#)  
[ATT00001.htm](#)

Here it is.

Sent from my iPhone

Begin forwarded message:

**From:** "Knapp, Kristien" <[Knapp.Kristien@epa.gov](mailto:Knapp.Kristien@epa.gov)>  
**To:** "Flynn, Mike" <[Flynn.Mike@epa.gov](mailto:Flynn.Mike@epa.gov)>, "Jackson, Ryan" <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>, "Bowman, Liz" <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)>, "Lyons, Troy" <[lyons.troy@epa.gov](mailto:lyons.troy@epa.gov)>, "Dravis, Samantha" <[dravis.samantha@epa.gov](mailto:dravis.samantha@epa.gov)>, "Graham, Amy" <[graham.amy@epa.gov](mailto:graham.amy@epa.gov)>, "Bennett, Tate" <[Bennett.Tate@epa.gov](mailto:Bennett.Tate@epa.gov)>, "Dunham, Sarah" <[Dunham.Sarah@epa.gov](mailto:Dunham.Sarah@epa.gov)>, "Gunasekara, Mandy" <[Gunasekara.Mandy@epa.gov](mailto:Gunasekara.Mandy@epa.gov)>, "Schwab, Justin" <[schwab.justin@epa.gov](mailto:schwab.justin@epa.gov)>, "Bolen, Brittany" <[bolen.brittany@epa.gov](mailto:bolen.brittany@epa.gov)>, "Reeder, John" <[Reeder.John@epa.gov](mailto:Reeder.John@epa.gov)>, "Brown, Byron" <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>  
**Cc:** "Grantham, Nancy" <[Grantham.Nancy@epa.gov](mailto:Grantham.Nancy@epa.gov)>, "Richardson, RobinH" <[Richardson.RobinH@epa.gov](mailto:Richardson.RobinH@epa.gov)>, "Hull, George" <[Hull.George@epa.gov](mailto:Hull.George@epa.gov)>, "Lewis, Josh" <[Lewis.Josh@epa.gov](mailto:Lewis.Josh@epa.gov)>, "Burden, Susan" <[Burden.Susan@epa.gov](mailto:Burden.Susan@epa.gov)>, "Owens, Nicole" <[Owens.Nicole@epa.gov](mailto:Owens.Nicole@epa.gov)>, "Rees, Sarah" <[rees.sarah@epa.gov](mailto:rees.sarah@epa.gov)>, "Smith, Kristi" <[Smith.Kristi@epa.gov](mailto:Smith.Kristi@epa.gov)>, "Bianco, Karen" <[Bianco.Karen@epa.gov](mailto:Bianco.Karen@epa.gov)>, "Nickerson, William" <[Nickerson.William@epa.gov](mailto:Nickerson.William@epa.gov)>, "Curry, Bridgid" <[Curry.Bridgid@epa.gov](mailto:Curry.Bridgid@epa.gov)>  
**Subject:** Signed - Ozone Extension Withdrawal

A Federal Register notice announcing a withdrawal of the 1-year extension of the deadline for promulgating initial area designations for the ozone national ambient air quality standards was signed today. A copy of the signed notice is attached. Please let me know if you have any questions.

Thanks,

Kristien

Kristien Knapp

Special Assistant (OAR, OITA, OGC, OP)

Office of the Administrator

(202) 564-3277

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR PART 81**

**[EPA-HQ-OAR-2017-0223; FRL- ]**

**Withdrawal of Extension of Deadline for Promulgating Designations for the 2015 Ozone National Ambient Air Quality Standards**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Withdrawal of extension of deadline for promulgating designations.

**SUMMARY:** The Environmental Protection Agency (EPA) is announcing that it is withdrawing the 1-year extension of the deadline for promulgating initial area designations for the ozone national ambient air quality standards (NAAQS) that were promulgated in October 2015. Thus, unless and until the Administrator takes additional final action, the 2-year deadline for promulgating designations provided in the Clean Air Act (CAA) applies.

**DATES:** The deadline for the EPA to promulgate initial designations for the 2015 ozone NAAQS is October 1, 2017.

**FOR FURTHER INFORMATION CONTACT:** For questions regarding this action, contact Carla Oldham, Air Quality Planning Division, Office of Air Quality Planning and Standards, Mail Code C539-04, Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-3347; email address: [oldham.carla@epa.gov](mailto:oldham.carla@epa.gov)

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this action apply to me?*

Entities potentially affected by this action include state, local and tribal governments that would participate in the initial area designation process for the 2015 ozone standards.

*B. Where can I get a copy of this document and other related information?*

The EPA has established a docket for designations for the 2015 ozone NAAQS under Docket ID No. EPA-HQ-OAR-2017-0223. All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, *e.g.*, confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue, NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the EPA Docket Center is (202) 566-1742.

An electronic copy of this notice is also available at <http://www.epa.gov/ozone-designations> along with other information related to designations for the 2015 ozone NAAQS.

## **II. Designations Requirements**

On October 1, 2015, the EPA signed a notice of final rulemaking that revised the 8-hour primary and secondary ozone NAAQS (80 FR 65292; October 26, 2015). Both standards were lowered from 0.075 parts per million (ppm) to a level of 0.070 ppm.

After the EPA establishes or revises a NAAQS pursuant to CAA section 109, the CAA directs the EPA and the states to begin taking steps to ensure that those NAAQS are met. The first step is to identify areas of the country that meet or do not meet that NAAQS. This step is known as the initial area designations. Section 107(d)(1)(A) of the CAA provides that, “By such date as the Administrator may reasonably require, but not later than 1 year after promulgation of

a new or revised national ambient air quality standard for any pollutant under section [109], the Governor of each State shall \* \* \* submit to the Administrator a list of all areas (or portions thereof) in the State” that designates those areas as nonattainment, attainment, or unclassifiable.

The CAA further provides, “Upon promulgation or revision of a national ambient air quality standard, the Administrator shall promulgate the designations of all areas (or portions thereof) \* \* \* as expeditiously as practicable, but in no case later than 2 years from the date of promulgation of the new or revised national ambient air quality standard. Such period may be extended for up to one year in the event the Administrator has insufficient information to promulgate the designations.” 42 U.S.C. § 7407(d)(1)(B)(i).

In the EPA guidance, “Area Designations for the 2015 Ozone National Ambient Air Quality Standards,” the EPA indicated it expected to complete the initial area designations by October 1, 2017, consistent with the statutory requirement that the EPA designate areas no later than 2 years following promulgation of a revised NAAQS.<sup>1</sup>

### **III. Withdrawal of Extension of Deadline for Promulgating Designations for the 2015 Ozone NAAQS**

In letters sent to states on June 6, 2017, and in a **Federal Register** notice published on June 28, 2017 (82 FR 29246), the EPA Administrator Scott Pruitt announced that he was using his authority under section 107(d)(1)(B)(i) of the CAA to extend by 1 year, to October 1, 2018, the deadline for promulgating initial area designations for the 2015 ozone NAAQS. At that time (i.e., in early June), it was not clear that the agency would be in the position to complete designations for all areas for the 2015 ozone NAAQS in accordance with the 2-year statutory

---

<sup>1</sup> Memorandum from Janet G. McCabe, Acting Assistant Administrator, to Regional Administrators, Regions 1-10. February 25, 2016.

deadline of October 1, 2017. For a variety of other NAAQS in the past, previous EPA Administrators have used the authority under section 107(d)(1)(B)(i) to take additional time to complete designations.<sup>2</sup> The Administrator decided to similarly invoke the extension with regard to designations for the 2015 ozone NAAQS.

The EPA has continued to discuss and work with states concerning designations, and now understands that the information gaps that formed the basis of the extension may not be as expansive as we previously believed. The EPA now intends to reassess whether there are areas with underlying technical issues, whether there are state designation recommendations that the EPA intends to modify, and whether for any area there is insufficient information to promulgate the designation. The EPA believes this reevaluation will help ensure that more Americans are living and working in areas that meet national air quality standards. The agency believes that there may be areas of the United States for which designations could be promulgated in the next few months. Therefore, the EPA is withdrawing its prior announced 1-year extension of the deadline for promulgating initial area designations for the 2015 ozone NAAQS, and the 2-year deadline for promulgating designations provided in section 107(d)(1)(B) of the CAA applies. The Administrator may still determine that an extension of time to complete designations is necessary, but is not making such a determination at this time.

---

<sup>2</sup> For the 2008 ozone NAAQS, *see* 75 FR 2936 (January 19, 2010); for the 2008 lead NAAQS, *see* 75 FR 71033 (November 22, 2010); for the 2010 sulfur dioxide NAAQS, *see* 77 FR 46295 (August 3, 2012); and for the 2012 fine particulate matter NAAQS, *see* 80 FR 2206 (January 15, 2015).

**Page 5 of 5 – Withdrawal of Extension of Deadline for Promulgating Designations for the 2015 Ozone National Ambient Air Quality Standards**

**LIST OF SUBJECTS IN 40 CFR PART 81**

Environmental protection, Air pollution control, National parks, Wilderness areas.

**AUG 02 2017**

\_\_\_\_\_  
Dated:

A handwritten signature in black ink, appearing to read "E. Scott Pruitt", is written over a horizontal line.

E. Scott Pruitt,  
Administrator.



**To:** Tierney, Jan[tierney.jan@epa.gov]  
**From:** Bianco, Karen  
**Sent:** Wed 8/2/2017 10:01:39 PM  
**Subject:** Fwd: Signed - Ozone Extension Withdrawal  
[Ozone Extension Withdrawal August 2 2017.pdf](#)  
[ATT00001.htm](#)

Sent from my iPhone

Begin forwarded message:

**From:** "Knapp, Kristien" <[Knapp.Kristien@epa.gov](mailto:Knapp.Kristien@epa.gov)>  
**To:** "Flynn, Mike" <[Flynn.Mike@epa.gov](mailto:Flynn.Mike@epa.gov)>, "Jackson, Ryan" <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>, "Bowman, Liz" <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)>, "Lyons, Troy" <[lyons.troy@epa.gov](mailto:lyons.troy@epa.gov)>, "Dravis, Samantha" <[dravis.samantha@epa.gov](mailto:dravis.samantha@epa.gov)>, "Graham, Amy" <[graham.amy@epa.gov](mailto:graham.amy@epa.gov)>, "Bennett, Tate" <[Bennett.Tate@epa.gov](mailto:Bennett.Tate@epa.gov)>, "Dunham, Sarah" <[Dunham.Sarah@epa.gov](mailto:Dunham.Sarah@epa.gov)>, "Gunasekara, Mandy" <[Gunasekara.Mandy@epa.gov](mailto:Gunasekara.Mandy@epa.gov)>, "Schwab, Justin" <[schwab.justin@epa.gov](mailto:schwab.justin@epa.gov)>, "Bolen, Brittany" <[bolen.brittany@epa.gov](mailto:bolen.brittany@epa.gov)>, "Reeder, John" <[Reeder.John@epa.gov](mailto:Reeder.John@epa.gov)>, "Brown, Byron" <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>  
**Cc:** "Grantham, Nancy" <[Grantham.Nancy@epa.gov](mailto:Grantham.Nancy@epa.gov)>, "Richardson, RobinH" <[Richardson.RobinH@epa.gov](mailto:Richardson.RobinH@epa.gov)>, "Hull, George" <[Hull.George@epa.gov](mailto:Hull.George@epa.gov)>, "Lewis, Josh" <[Lewis.Josh@epa.gov](mailto:Lewis.Josh@epa.gov)>, "Burden, Susan" <[Burden.Susan@epa.gov](mailto:Burden.Susan@epa.gov)>, "Owens, Nicole" <[Owens.Nicole@epa.gov](mailto:Owens.Nicole@epa.gov)>, "Rees, Sarah" <[rees.sarah@epa.gov](mailto:rees.sarah@epa.gov)>, "Smith, Kristi" <[Smith.Kristi@epa.gov](mailto:Smith.Kristi@epa.gov)>, "Bianco, Karen" <[Bianco.Karen@epa.gov](mailto:Bianco.Karen@epa.gov)>, "Nickerson, William" <[Nickerson.William@epa.gov](mailto:Nickerson.William@epa.gov)>, "Curry, Bridgid" <[Curry.Bridgid@epa.gov](mailto:Curry.Bridgid@epa.gov)>  
**Subject:** Signed - Ozone Extension Withdrawal

A Federal Register notice announcing a withdrawal of the 1-year extension of the deadline for promulgating initial area designations for the ozone national ambient air quality standards was signed today. A copy of the signed notice is attached. Please let me know if you have any questions.

Thanks,

Kristien

Kristien Knapp

Special Assistant (OAR, OITA, OGC, OP)

Office of the Administrator

(202) 564-3277

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR PART 81**

**[EPA-HQ-OAR-2017-0223; FRL- ]**

**Withdrawal of Extension of Deadline for Promulgating Designations for the 2015 Ozone National Ambient Air Quality Standards**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Withdrawal of extension of deadline for promulgating designations.

**SUMMARY:** The Environmental Protection Agency (EPA) is announcing that it is withdrawing the 1-year extension of the deadline for promulgating initial area designations for the ozone national ambient air quality standards (NAAQS) that were promulgated in October 2015. Thus, unless and until the Administrator takes additional final action, the 2-year deadline for promulgating designations provided in the Clean Air Act (CAA) applies.

**DATES:** The deadline for the EPA to promulgate initial designations for the 2015 ozone NAAQS is October 1, 2017.

**FOR FURTHER INFORMATION CONTACT:** For questions regarding this action, contact Carla Oldham, Air Quality Planning Division, Office of Air Quality Planning and Standards, Mail Code C539-04, Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-3347; email address: [oldham.carla@epa.gov](mailto:oldham.carla@epa.gov)

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this action apply to me?*

Entities potentially affected by this action include state, local and tribal governments that would participate in the initial area designation process for the 2015 ozone standards.

*B. Where can I get a copy of this document and other related information?*

The EPA has established a docket for designations for the 2015 ozone NAAQS under Docket ID No. EPA-HQ-OAR-2017-0223. All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue, NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the EPA Docket Center is (202) 566-1742.

An electronic copy of this notice is also available at <http://www.epa.gov/ozone-designations> along with other information related to designations for the 2015 ozone NAAQS.

## **II. Designations Requirements**

On October 1, 2015, the EPA signed a notice of final rulemaking that revised the 8-hour primary and secondary ozone NAAQS (80 FR 65292; October 26, 2015). Both standards were lowered from 0.075 parts per million (ppm) to a level of 0.070 ppm.

After the EPA establishes or revises a NAAQS pursuant to CAA section 109, the CAA directs the EPA and the states to begin taking steps to ensure that those NAAQS are met. The first step is to identify areas of the country that meet or do not meet that NAAQS. This step is known as the initial area designations. Section 107(d)(1)(A) of the CAA provides that, “By such date as the Administrator may reasonably require, but not later than 1 year after promulgation of

a new or revised national ambient air quality standard for any pollutant under section [109], the Governor of each State shall \* \* \* submit to the Administrator a list of all areas (or portions thereof) in the State” that designates those areas as nonattainment, attainment, or unclassifiable.

The CAA further provides, “Upon promulgation or revision of a national ambient air quality standard, the Administrator shall promulgate the designations of all areas (or portions thereof) \* \* \* as expeditiously as practicable, but in no case later than 2 years from the date of promulgation of the new or revised national ambient air quality standard. Such period may be extended for up to one year in the event the Administrator has insufficient information to promulgate the designations.” 42 U.S.C. § 7407(d)(1)(B)(i).

In the EPA guidance, “Area Designations for the 2015 Ozone National Ambient Air Quality Standards,” the EPA indicated it expected to complete the initial area designations by October 1, 2017, consistent with the statutory requirement that the EPA designate areas no later than 2 years following promulgation of a revised NAAQS.<sup>1</sup>

### **III. Withdrawal of Extension of Deadline for Promulgating Designations for the 2015 Ozone NAAQS**

In letters sent to states on June 6, 2017, and in a **Federal Register** notice published on June 28, 2017 (82 FR 29246), the EPA Administrator Scott Pruitt announced that he was using his authority under section 107(d)(1)(B)(i) of the CAA to extend by 1 year, to October 1, 2018, the deadline for promulgating initial area designations for the 2015 ozone NAAQS. At that time (i.e., in early June), it was not clear that the agency would be in the position to complete designations for all areas for the 2015 ozone NAAQS in accordance with the 2-year statutory

---

<sup>1</sup> Memorandum from Janet G. McCabe, Acting Assistant Administrator, to Regional Administrators, Regions 1-10. February 25, 2016.

deadline of October 1, 2017. For a variety of other NAAQS in the past, previous EPA Administrators have used the authority under section 107(d)(1)(B)(i) to take additional time to complete designations.<sup>2</sup> The Administrator decided to similarly invoke the extension with regard to designations for the 2015 ozone NAAQS.

The EPA has continued to discuss and work with states concerning designations, and now understands that the information gaps that formed the basis of the extension may not be as expansive as we previously believed. The EPA now intends to reassess whether there are areas with underlying technical issues, whether there are state designation recommendations that the EPA intends to modify, and whether for any area there is insufficient information to promulgate the designation. The EPA believes this reevaluation will help ensure that more Americans are living and working in areas that meet national air quality standards. The agency believes that there may be areas of the United States for which designations could be promulgated in the next few months. Therefore, the EPA is withdrawing its prior announced 1-year extension of the deadline for promulgating initial area designations for the 2015 ozone NAAQS, and the 2-year deadline for promulgating designations provided in section 107(d)(1)(B) of the CAA applies. The Administrator may still determine that an extension of time to complete designations is necessary, but is not making such a determination at this time.

---

<sup>2</sup> For the 2008 ozone NAAQS, *see* 75 FR 2936 (January 19, 2010); for the 2008 lead NAAQS, *see* 75 FR 71033 (November 22, 2010); for the 2010 sulfur dioxide NAAQS, *see* 77 FR 46295 (August 3, 2012); and for the 2012 fine particulate matter NAAQS, *see* 80 FR 2206 (January 15, 2015).

**Page 5 of 5 – Withdrawal of Extension of Deadline for Promulgating Designations for the 2015 Ozone National Ambient Air Quality Standards**

**LIST OF SUBJECTS IN 40 CFR PART 81**

Environmental protection, Air pollution control, National parks, Wilderness areas.

**AUG 02 2017**

\_\_\_\_\_  
Dated:

A handwritten signature in black ink, appearing to read "E. Scott Pruitt", is written over a horizontal line.

E. Scott Pruitt,  
Administrator.

**To:** Smith, Kristi[Smith.Kristi@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]  
**From:** Bianco, Karen  
**Sent:** Wed 8/2/2017 10:00:56 PM  
**Subject:** Fwd: Signed - Ozone Extension Withdrawal  
[Ozone Extension Withdrawal August 2 2017.pdf](#)  
[ATT00001.htm](#)

This can go to petitioners now, yes?

Sent from my iPhone

Begin forwarded message:

**From:** "Knapp, Kristien" <Knapp.Kristien@epa.gov>  
**This To:** "Flynn, Mike" <Flynn.Mike@epa.gov>, "Jackson, Ryan" <jackson.ryan@epa.gov>, "Bowman, Liz" <Bowman.Liz@epa.gov>, "Lyons, Troy" <lyons.troy@epa.gov>, "Dravis, Samantha" <dravis.samantha@epa.gov>, "Graham, Amy" <graham.amy@epa.gov>, "Bennett, Tate" <Bennett.Tate@epa.gov>, "Dunham, Sarah" <Dunham.Sarah@epa.gov>, "Gunasekara, Mandy" <Gunasekara.Mandy@epa.gov>, "Schwab, Justin" <schwab.justin@epa.gov>, "Bolen, Brittany" <bolen.brittany@epa.gov>, "Reeder, John" <Reeder.John@epa.gov>, "Brown, Byron" <brown.byron@epa.gov>  
**Cc:** "Grantham, Nancy" <Grantham.Nancy@epa.gov>, "Richardson, RobinH" <Richardson.RobinH@epa.gov>, "Hull, George" <Hull.George@epa.gov>, "Lewis, Josh" <Lewis.Josh@epa.gov>, "Burden, Susan" <Burden.Susan@epa.gov>, "Owens, Nicole" <Owens.Nicole@epa.gov>, "Rees, Sarah" <rees.sarah@epa.gov>, "Smith, Kristi" <Smith.Kristi@epa.gov>, "Bianco, Karen" <Bianco.Karen@epa.gov>, "Nickerson, William" <Nickerson.William@epa.gov>, "Curry, Bridgid" <Curry.Bridgid@epa.gov>  
**Subject:** Signed - Ozone Extension Withdrawal

A Federal Register notice announcing a withdrawal of the 1-year extension of the deadline for promulgating initial area designations for the ozone national ambient air quality standards was signed today. A copy of the signed notice is attached. Please let me know if you have any questions.

Thanks,

Kristien

Kristien Knapp



Special Assistant (OAR, OITA, OGC, OP)

Office of the Administrator

(202) 564-3277

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR PART 81**

**[EPA-HQ-OAR-2017-0223; FRL- ]**

**Withdrawal of Extension of Deadline for Promulgating Designations for the 2015 Ozone National Ambient Air Quality Standards**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Withdrawal of extension of deadline for promulgating designations.

**SUMMARY:** The Environmental Protection Agency (EPA) is announcing that it is withdrawing the 1-year extension of the deadline for promulgating initial area designations for the ozone national ambient air quality standards (NAAQS) that were promulgated in October 2015. Thus, unless and until the Administrator takes additional final action, the 2-year deadline for promulgating designations provided in the Clean Air Act (CAA) applies.

**DATES:** The deadline for the EPA to promulgate initial designations for the 2015 ozone NAAQS is October 1, 2017.

**FOR FURTHER INFORMATION CONTACT:** For questions regarding this action, contact Carla Oldham, Air Quality Planning Division, Office of Air Quality Planning and Standards, Mail Code C539-04, Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-3347; email address: [oldham.carla@epa.gov](mailto:oldham.carla@epa.gov)

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this action apply to me?*

Entities potentially affected by this action include state, local and tribal governments that would participate in the initial area designation process for the 2015 ozone standards.

*B. Where can I get a copy of this document and other related information?*

The EPA has established a docket for designations for the 2015 ozone NAAQS under Docket ID No. EPA-HQ-OAR-2017-0223. All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, *e.g.*, confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue, NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the EPA Docket Center is (202) 566-1742.

An electronic copy of this notice is also available at <http://www.epa.gov/ozone-designations> along with other information related to designations for the 2015 ozone NAAQS.

## **II. Designations Requirements**

On October 1, 2015, the EPA signed a notice of final rulemaking that revised the 8-hour primary and secondary ozone NAAQS (80 FR 65292; October 26, 2015). Both standards were lowered from 0.075 parts per million (ppm) to a level of 0.070 ppm.

After the EPA establishes or revises a NAAQS pursuant to CAA section 109, the CAA directs the EPA and the states to begin taking steps to ensure that those NAAQS are met. The first step is to identify areas of the country that meet or do not meet that NAAQS. This step is known as the initial area designations. Section 107(d)(1)(A) of the CAA provides that, “By such date as the Administrator may reasonably require, but not later than 1 year after promulgation of

a new or revised national ambient air quality standard for any pollutant under section [109], the Governor of each State shall \* \* \* submit to the Administrator a list of all areas (or portions thereof) in the State” that designates those areas as nonattainment, attainment, or unclassifiable.

The CAA further provides, “Upon promulgation or revision of a national ambient air quality standard, the Administrator shall promulgate the designations of all areas (or portions thereof) \* \* \* as expeditiously as practicable, but in no case later than 2 years from the date of promulgation of the new or revised national ambient air quality standard. Such period may be extended for up to one year in the event the Administrator has insufficient information to promulgate the designations.” 42 U.S.C. § 7407(d)(1)(B)(i).

In the EPA guidance, “Area Designations for the 2015 Ozone National Ambient Air Quality Standards,” the EPA indicated it expected to complete the initial area designations by October 1, 2017, consistent with the statutory requirement that the EPA designate areas no later than 2 years following promulgation of a revised NAAQS.<sup>1</sup>

### **III. Withdrawal of Extension of Deadline for Promulgating Designations for the 2015 Ozone NAAQS**

In letters sent to states on June 6, 2017, and in a **Federal Register** notice published on June 28, 2017 (82 FR 29246), the EPA Administrator Scott Pruitt announced that he was using his authority under section 107(d)(1)(B)(i) of the CAA to extend by 1 year, to October 1, 2018, the deadline for promulgating initial area designations for the 2015 ozone NAAQS. At that time (i.e., in early June), it was not clear that the agency would be in the position to complete designations for all areas for the 2015 ozone NAAQS in accordance with the 2-year statutory

---

<sup>1</sup> Memorandum from Janet G. McCabe, Acting Assistant Administrator, to Regional Administrators, Regions 1-10. February 25, 2016.

deadline of October 1, 2017. For a variety of other NAAQS in the past, previous EPA Administrators have used the authority under section 107(d)(1)(B)(i) to take additional time to complete designations.<sup>2</sup> The Administrator decided to similarly invoke the extension with regard to designations for the 2015 ozone NAAQS.

The EPA has continued to discuss and work with states concerning designations, and now understands that the information gaps that formed the basis of the extension may not be as expansive as we previously believed. The EPA now intends to reassess whether there are areas with underlying technical issues, whether there are state designation recommendations that the EPA intends to modify, and whether for any area there is insufficient information to promulgate the designation. The EPA believes this reevaluation will help ensure that more Americans are living and working in areas that meet national air quality standards. The agency believes that there may be areas of the United States for which designations could be promulgated in the next few months. Therefore, the EPA is withdrawing its prior announced 1-year extension of the deadline for promulgating initial area designations for the 2015 ozone NAAQS, and the 2-year deadline for promulgating designations provided in section 107(d)(1)(B) of the CAA applies. The Administrator may still determine that an extension of time to complete designations is necessary, but is not making such a determination at this time.

---

<sup>2</sup> For the 2008 ozone NAAQS, *see* 75 FR 2936 (January 19, 2010); for the 2008 lead NAAQS, *see* 75 FR 71033 (November 22, 2010); for the 2010 sulfur dioxide NAAQS, *see* 77 FR 46295 (August 3, 2012); and for the 2012 fine particulate matter NAAQS, *see* 80 FR 2206 (January 15, 2015).

**Page 5 of 5 – Withdrawal of Extension of Deadline for Promulgating Designations for the 2015 Ozone National Ambient Air Quality Standards**

**LIST OF SUBJECTS IN 40 CFR PART 81**

Environmental protection, Air pollution control, National parks, Wilderness areas.

**AUG 02 2017**

\_\_\_\_\_  
Dated:

A handwritten signature in black ink, appearing to read "E. Scott Pruitt", is written over a horizontal line.

E. Scott Pruitt,  
Administrator.

**To:** Rave, Norman (ENRD)[Norman.Rave@usdoj.gov]  
**Cc:** Lipshultz, Jon (ENRD)[Jon.Lipshultz@usdoj.gov]; Smith, Kristi[Smith.Kristi@epa.gov]  
**From:** Bianco, Karen  
**Sent:** Wed 8/2/2017 6:32:23 PM  
**Subject:** new draft withdrawal FR  
Notice-withdraw extension of O3D deadline 8-2-17 rev.docx

Attached is the latest version of the federal register notice withdrawing the extension of the deadline for designating areas under the 2015 ozone NAAQS. This should be near final, but is not yet final, so is still subject to change. I will update you as soon as I hear we have a signed version (or a final version that is just awaiting signature, but will not change further).

Karen Bennett Bianco | U.S. Environmental Protection Agency

Attorney-Adviser | Office of General Counsel | WJCN 7426X | 202-564-3298

**To:** Tierney, Jan[tierney.jan@epa.gov]  
**From:** Bianco, Karen  
**Sent:** Wed 8/2/2017 6:19:25 PM  
**Subject:** FW: final? notice to withdraw extension of o3d deadline  
Notice-withdraw extension of O3D deadline 8-2-17 rev.docx

Jan, are you back online? If I don't hear from you within a few minutes, I'll work on sending this back up.

**From:** Mathias, Scott  
**Sent:** Wednesday, August 02, 2017 2:17 PM  
**To:** Bianco, Karen <Bianco.Karen@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>  
**Cc:** Tierney, Jan <tierney.jan@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>  
**Subject:** final? notice to withdraw extension of o3d deadline

The attached FR notice, in clean form, incorporates the last OGC staff iteration of the edits made by politicals, including Kristi's mod to the last sentence (which we like). It also includes reference to Jackson and McCarthy as requested, and the citations for prior extension actions are filled in. Please check and forward for clearance. Once we hear from you we will send a new set of final documents, including the action memo and comm strat to OAR for processing.

Scott Mathias | Associate Director, Air Quality Policy Division | U.S. EPA, RTP, NC 27711 | 919.541.5310

-----Original Message-----

**From:** Bianco, Karen  
**Sent:** Wednesday, August 02, 2017 1:56 PM  
**To:** Mathias, Scott <Mathias.Scott@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>  
**Cc:** Tierney, Jan <tierney.jan@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>  
**Subject:** FW: Notice-withdraw extension of O3D deadline 7-27-17 \_MMG edits\_CLEAN.docx

Another edit from some political via Justin forwarded below. Scott, if you can add this to what you are doing, that would be helpful. If not, Jan or I will do it once you send back the new "final".



-----Original Message-----

From: Schwab, Justin

Sent: Wednesday, August 02, 2017 1:54 PM

To: Bianco, Karen <[Bianco.Karen@epa.gov](mailto:Bianco.Karen@epa.gov)>

Cc: Smith, Kristi <[Smith.Kristi@epa.gov](mailto:Smith.Kristi@epa.gov)>; Tierney, Jan <[tierney.jan@epa.gov](mailto:tierney.jan@epa.gov)>

Subject: Re: Notice-withdraw extension of O3D deadline 7-27-17 \_MMG edits\_CLEAN.docx

Edits:

When citing prior designation delays, please spell out in the text of the narrative which administrator effected those delays

Sent from my iPhone

> On Aug 2, 2017, at 12:28 PM, Bianco, Karen <[Bianco.Karen@epa.gov](mailto:Bianco.Karen@epa.gov)> wrote:

>

> Thank you, Justin. Message received. We will work on getting a new draft for your review and to go to DOJ.

>

> -----Original Message-----

> From: Schwab, Justin

> Sent: Wednesday, August 02, 2017 12:25 PM

> To: Bianco, Karen <[Bianco.Karen@epa.gov](mailto:Bianco.Karen@epa.gov)>

> Subject: Re: Notice-withdraw extension of O3D deadline 7-27-17 \_MMG edits\_CLEAN.docx

>

> Attached is the new third floor version. Please confirm receipt. Please incorporate OGC edits made on the prior circulation and resend to me for my review. At that point (ie without waiting for third floor/my approval) you can share with DOJ, but with the warning that it is still subject to change.

>

> Sent from my iPhone

>

>> On Aug 2, 2017, at 12:22 PM, Schwab, Justin <[schwab.justin@epa.gov](mailto:schwab.justin@epa.gov)> wrote:

>>

>>

>>

>> <Notice-withdraw extension of O3D deadline 7-27-17 \_MMG edits\_CLEAN.docx>

>>

>>

>>

>> Sent from my iPhone

**To:** Mills, Derek[Mills.Derek@epa.gov]  
**From:** Bianco, Karen  
**Sent:** Wed 8/2/2017 5:01:48 PM  
**Subject:** RE: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

I think Kristi is sorting this out via email so no need to talk to Justin.

The one outstanding item I think we still have is checking with Kevin on the intervention request, yes?

**From:** Mills, Derek  
**Sent:** Wednesday, August 02, 2017 12:41 PM  
**To:** Bianco, Karen <Bianco.Karen@epa.gov>  
**Subject:** Re: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

He is not in his office.

Sent from my iPhone

On Aug 2, 2017, at 12:37 PM, Bianco, Karen <[Bianco.Karen@epa.gov](mailto:Bianco.Karen@epa.gov)> wrote:

If you could talk to Justin, that would be much appreciated.

**From:** Mills, Derek  
**Sent:** Wednesday, August 02, 2017 12:34 PM  
**To:** Bianco, Karen <[Bianco.Karen@epa.gov](mailto:Bianco.Karen@epa.gov)>  
**Subject:** RE: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

Anything I can do? I don't want to add to the confusion.

**From:** Bianco, Karen  
**Sent:** Wednesday, August 02, 2017 12:27 PM  
**To:** Mills, Derek <[Mills.Derek@epa.gov](mailto:Mills.Derek@epa.gov)>  
**Subject:** RE: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

I thought so, too, but his email from 12:22 is very confusing..

**From:** Mills, Derek  
**Sent:** Wednesday, August 02, 2017 12:20 PM  
**To:** Bianco, Karen <[Bianco.Karen@epa.gov](mailto:Bianco.Karen@epa.gov)>  
**Subject:** RE: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

I left you a voice mail, but it looks like it got sorted out. Is this one done? Do you need anything else from the front office?

**From:** Bianco, Karen  
**Sent:** Wednesday, August 02, 2017 12:06 PM  
**To:** Mills, Derek <[Mills.Derek@epa.gov](mailto:Mills.Derek@epa.gov)>  
**Subject:** FW: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur  
**Importance:** High

Derek, can you help me sort this out? Justin told us yesterday during reg review that he considered himself recused from this litigation because Arizona has expressed an intention to intervene. After Justin said that, we directed review of the filing to Erik. If Justin has changed his opinion, then I'm happy to have him review this instead of Erik. We just need this sorted out quickly so we can get one of them to review this today.

**From:** Baptist, Erik  
**Sent:** Wednesday, August 02, 2017 12:01 PM

**To:** Bianco, Karen <[Bianco.Karen@epa.gov](mailto:Bianco.Karen@epa.gov)>  
**Cc:** Mills, Derek <[Mills.Derek@epa.gov](mailto:Mills.Derek@epa.gov)>; Smith, Kristi <[Smith.Kristi@epa.gov](mailto:Smith.Kristi@epa.gov)>;  
Schmidt, Lorie <[Schmidt.Lorie@epa.gov](mailto:Schmidt.Lorie@epa.gov)>; Schwab, Justin <[schwab.justin@epa.gov](mailto:schwab.justin@epa.gov)>  
**Subject:** RE: 2015 ozone designation delay draft motion to dismiss and response to  
summary vacatur

Karen,

I will defer to Justin on the motion and opposition. It is my understanding that he is not  
recused from this litigation.

**Erik Baptist**

Senior Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-1689

[baptist.erik@epa.gov](mailto:baptist.erik@epa.gov)

**From:** Bianco, Karen  
**Sent:** Wednesday, August 2, 2017 10:35 AM  
**To:** Baptist, Erik <[baptist.erik@epa.gov](mailto:baptist.erik@epa.gov)>  
**Cc:** Mills, Derek <[Mills.Derek@epa.gov](mailto:Mills.Derek@epa.gov)>; Smith, Kristi <[Smith.Kristi@epa.gov](mailto:Smith.Kristi@epa.gov)>;  
Schmidt, Lorie <[Schmidt.Lorie@epa.gov](mailto:Schmidt.Lorie@epa.gov)>  
**Subject:** 2015 ozone designation delay draft motion to dismiss and response to summary  
vacatur

Attached is our motion to dismiss and opposition to petitioners' motion for summary vacatur or, in the alternative, for stay of our extension of the deadline for promulgating designations for the 2015 ozone NAAQS. In the motion, we move to dismiss the petition for review on grounds of mootness based on EPA's withdrawal of the extension. The draft is quite short and to the point.

DOJ is asking for edits by the end of today in order to file by tomorrow's deadline.

Karen Bennett Bianco <sup>3</sup> U.S. Environmental Protection Agency

Attorney-Adviser <sup>3</sup> Office of General Counsel <sup>3</sup> WJCN 7426X <sup>3</sup> 202-564-3298

**To:** Mills, Derek[Mills.Derek@epa.gov]  
**From:** Bianco, Karen  
**Sent:** Wed 8/2/2017 4:42:25 PM  
**Subject:** RE: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

Thanks for checking.

**From:** Mills, Derek  
**Sent:** Wednesday, August 02, 2017 12:41 PM  
**To:** Bianco, Karen <Bianco.Karen@epa.gov>  
**Subject:** Re: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

He is not in his office.

Sent from my iPhone

On Aug 2, 2017, at 12:37 PM, Bianco, Karen <[Bianco.Karen@epa.gov](mailto:Bianco.Karen@epa.gov)> wrote:

If you could talk to Justin, that would be much appreciated.

**From:** Mills, Derek  
**Sent:** Wednesday, August 02, 2017 12:34 PM  
**To:** Bianco, Karen <[Bianco.Karen@epa.gov](mailto:Bianco.Karen@epa.gov)>  
**Subject:** RE: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

Anything I can do? I don't want to add to the confusion.

**From:** Bianco, Karen  
**Sent:** Wednesday, August 02, 2017 12:27 PM  
**To:** Mills, Derek <[Mills.Derek@epa.gov](mailto:Mills.Derek@epa.gov)>

**Subject:** RE: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

I thought so, too, but his email from 12:22 is very confusing..

**From:** Mills, Derek  
**Sent:** Wednesday, August 02, 2017 12:20 PM  
**To:** Bianco, Karen <[Bianco.Karen@epa.gov](mailto:Bianco.Karen@epa.gov)>  
**Subject:** RE: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

I left you a voice mail, but it looks like it got sorted out. Is this one done? Do you need anything else from the front office?

**From:** Bianco, Karen  
**Sent:** Wednesday, August 02, 2017 12:06 PM  
**To:** Mills, Derek <[Mills.Derek@epa.gov](mailto:Mills.Derek@epa.gov)>  
**Subject:** FW: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur  
**Importance:** High

Derek, can you help me sort this out? Justin told us yesterday during reg review that he considered himself recused from this litigation because Arizona has expressed an intention to intervene. After Justin said that, we directed review of the filing to Erik. If Justin has changed his opinion, then I'm happy to have him review this instead of Erik. We just need this sorted out quickly so we can get one of them to review this today.

**From:** Baptist, Erik  
**Sent:** Wednesday, August 02, 2017 12:01 PM  
**To:** Bianco, Karen <[Bianco.Karen@epa.gov](mailto:Bianco.Karen@epa.gov)>  
**Cc:** Mills, Derek <[Mills.Derek@epa.gov](mailto:Mills.Derek@epa.gov)>; Smith, Kristi <[Smith.Kristi@epa.gov](mailto:Smith.Kristi@epa.gov)>; Schmidt, Lorie <[Schmidt.Lorie@epa.gov](mailto:Schmidt.Lorie@epa.gov)>; Schwab, Justin <[schwab.justin@epa.gov](mailto:schwab.justin@epa.gov)>



**Subject:** RE: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

Karen,

I will defer to Justin on the motion and opposition. It is my understanding that he is not recused from this litigation.

**Erik Baptist**

Senior Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-1689

[baptist.erik@epa.gov](mailto:baptist.erik@epa.gov)

**From:** Bianco, Karen

**Sent:** Wednesday, August 2, 2017 10:35 AM

**To:** Baptist, Erik <[baptist.erik@epa.gov](mailto:baptist.erik@epa.gov)>

**Cc:** Mills, Derek <[Mills.Derek@epa.gov](mailto:Mills.Derek@epa.gov)>; Smith, Kristi <[Smith.Kristi@epa.gov](mailto:Smith.Kristi@epa.gov)>; Schmidt, Lorie <[Schmidt.Lorie@epa.gov](mailto:Schmidt.Lorie@epa.gov)>

**Subject:** 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

Attached is our motion to dismiss and opposition to petitioners' motion for summary vacatur or, in the alternative, for stay of our extension of the deadline for promulgating designations for the 2015 ozone NAAQS. In the motion, we move to dismiss the petition for review on grounds of mootness based on EPA's withdrawal of the extension. The draft is quite short and to the point.

DOJ is asking for edits by the end of today in order to file by tomorrow's deadline.

Karen Bennett Bianco <sup>3</sup> U.S. Environmental Protection Agency

Attorney-Adviser <sup>3</sup> Office of General Counsel <sup>3</sup> WJCN 7426X <sup>3</sup> 202-564-3298

**To:** Smith, Kristi[Smith.Kristi@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]  
**From:** Bianco, Karen  
**Sent:** Wed 8/2/2017 4:42:11 PM  
**Subject:** FW: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

Kristi and Lorie, if either of you have an idea of where we are right now, given Erik's emails, Justin's email at 12:16, and Justin's email at 12:22 – please let me know. Or if you are going to see Justin and can ask him on the sidelines, that would be very helpful as well.

**From:** Schwab, Justin  
**Sent:** Wednesday, August 02, 2017 12:22 PM  
**To:** Smith, Kristi <Smith.Kristi@epa.gov>  
**Cc:** Baptist, Erik <baptist.erik@epa.gov>; Bianco, Karen <Bianco.Karen@epa.gov>; Mills, Derek <Mills.Derek@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>  
**Subject:** Re: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

I am recused from deliberations with regard to that motion to intervene but because they are not yet parties I am not sure whether I am still permitted to participate in the action itself.

To resolve uncertainty on that count, I am happy to let Erik handle the case for the time being.

Sent from my iPhone

On Aug 2, 2017, at 12:19 PM, Smith, Kristi <[Smith.Kristi@epa.gov](mailto:Smith.Kristi@epa.gov)> wrote:

Erik -

My understanding is that Justin is now revised because of the states that are intervening on our behalf.

- Kristi

Kristi M. Smith \* Assistant General Counsel for the NAAQS Implementation Group \* Air & Radiation Law Office \* US EPA, Office of General Counsel  
\* [smith.kristi@epa.gov](mailto:smith.kristi@epa.gov) \* (202) 564-3068\*

CONFIDENTIAL communication for internal deliberations only; may contain deliberative, attorney-client, attorney work product, or otherwise privileged material; do not distribute outside EPA or DOJ.

On Aug 2, 2017, at 12:01 PM, Baptist, Erik <[baptist.erik@epa.gov](mailto:baptist.erik@epa.gov)> wrote:

Karen,

I will defer to Justin on the motion and opposition. It is my understanding that he is not recused from this litigation.

**Erik Baptist**

Senior Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-1689

[baptist.erik@epa.gov](mailto:baptist.erik@epa.gov)

**From:** Bianco, Karen

**Sent:** Wednesday, August 2, 2017 10:35 AM

**To:** Baptist, Erik <[baptist.erik@epa.gov](mailto:baptist.erik@epa.gov)>

**Cc:** Mills, Derek <[Mills.Derek@epa.gov](mailto:Mills.Derek@epa.gov)>; Smith, Kristi <[Smith.Kristi@epa.gov](mailto:Smith.Kristi@epa.gov)>; Schmidt, Lorie <[Schmidt.Lorie@epa.gov](mailto:Schmidt.Lorie@epa.gov)>

**Subject:** 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

Attached is our motion to dismiss and opposition to petitioners' motion for summary vacatur or, in the alternative, for stay of our extension of the deadline for promulgating designations for the 2015 ozone NAAQS. In the motion, we move to dismiss the petition for review on grounds of mootness based on EPA's withdrawal of the extension. The draft is quite short and to the point.

DOJ is asking for edits by the end of today in order to file by tomorrow's deadline.

Karen Bennett Bianco <sup>3</sup> U.S. Environmental Protection Agency

Attorney-Adviser <sup>3</sup> Office of General Counsel <sup>3</sup> WJCN 7426X <sup>3</sup> 202-564-3298

**To:** Mills, Derek[Mills.Derek@epa.gov]  
**From:** Bianco, Karen  
**Sent:** Wed 8/2/2017 4:37:21 PM  
**Subject:** RE: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

If you could talk to Justin, that would be much appreciated.

**From:** Mills, Derek  
**Sent:** Wednesday, August 02, 2017 12:34 PM  
**To:** Bianco, Karen <Bianco.Karen@epa.gov>  
**Subject:** RE: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

Anything I can do? I don't want to add to the confusion.

**From:** Bianco, Karen  
**Sent:** Wednesday, August 02, 2017 12:27 PM  
**To:** Mills, Derek <Mills.Derek@epa.gov>  
**Subject:** RE: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

I thought so, too, but his email from 12:22 is very confusing..

**From:** Mills, Derek  
**Sent:** Wednesday, August 02, 2017 12:20 PM  
**To:** Bianco, Karen <Bianco.Karen@epa.gov>  
**Subject:** RE: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

I left you a voice mail, but it looks like it got sorted out. Is this one done? Do you need anything else from the front office?

**From:** Bianco, Karen  
**Sent:** Wednesday, August 02, 2017 12:06 PM  
**To:** Mills, Derek <[Mills.Derek@epa.gov](mailto:Mills.Derek@epa.gov)>  
**Subject:** FW: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur  
**Importance:** High

Derek, can you help me sort this out? Justin told us yesterday during reg review that he considered himself recused from this litigation because Arizona has expressed an intention to intervene. After Justin said that, we directed review of the filing to Erik. If Justin has changed his opinion, then I'm happy to have him review this instead of Erik. We just need this sorted out quickly so we can get one of them to review this today.

**From:** Baptist, Erik  
**Sent:** Wednesday, August 02, 2017 12:01 PM  
**To:** Bianco, Karen <[Bianco.Karen@epa.gov](mailto:Bianco.Karen@epa.gov)>  
**Cc:** Mills, Derek <[Mills.Derek@epa.gov](mailto:Mills.Derek@epa.gov)>; Smith, Kristi <[Smith.Kristi@epa.gov](mailto:Smith.Kristi@epa.gov)>; Schmidt, Lorie <[Schmidt.Lorie@epa.gov](mailto:Schmidt.Lorie@epa.gov)>; Schwab, Justin <[schwab.justin@epa.gov](mailto:schwab.justin@epa.gov)>  
**Subject:** RE: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

Karen,

I will defer to Justin on the motion and opposition. It is my understanding that he is not recused from this litigation.

**Erik Baptist**

Senior Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-1689

[baptist.erik@epa.gov](mailto:baptist.erik@epa.gov)

**From:** Bianco, Karen

**Sent:** Wednesday, August 2, 2017 10:35 AM

**To:** Baptist, Erik <[baptist.erik@epa.gov](mailto:baptist.erik@epa.gov)>

**Cc:** Mills, Derek <[Mills.Derek@epa.gov](mailto:Mills.Derek@epa.gov)>; Smith, Kristi <[Smith.Kristi@epa.gov](mailto:Smith.Kristi@epa.gov)>; Schmidt, Lorie <[Schmidt.Lorie@epa.gov](mailto:Schmidt.Lorie@epa.gov)>

**Subject:** 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

Attached is our motion to dismiss and opposition to petitioners' motion for summary vacatur or, in the alternative, for stay of our extension of the deadline for promulgating designations for the 2015 ozone NAAQS. In the motion, we move to dismiss the petition for review on grounds of mootness based on EPA's withdrawal of the extension. The draft is quite short and to the point.

DOJ is asking for edits by the end of today in order to file by tomorrow's deadline.

Karen Bennett Bianco <sup>3</sup> U.S. Environmental Protection Agency

Attorney-Adviser <sup>3</sup> Office of General Counsel <sup>3</sup> WJCN 7426X <sup>3</sup> 202-564-3298



**To:** Mills, Derek[Mills.Derek@epa.gov]  
**From:** Bianco, Karen  
**Sent:** Wed 8/2/2017 4:26:37 PM  
**Subject:** RE: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

I thought so, too, but his email from 12:22 is very confusing..

**From:** Mills, Derek  
**Sent:** Wednesday, August 02, 2017 12:20 PM  
**To:** Bianco, Karen <Bianco.Karen@epa.gov>  
**Subject:** RE: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

I left you a voice mail, but it looks like it got sorted out. Is this one done? Do you need anything else from the front office?

**From:** Bianco, Karen  
**Sent:** Wednesday, August 02, 2017 12:06 PM  
**To:** Mills, Derek <Mills.Derek@epa.gov>  
**Subject:** FW: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur  
**Importance:** High

Derek, can you help me sort this out? Justin told us yesterday during reg review that he considered himself recused from this litigation because Arizona has expressed an intention to intervene. After Justin said that, we directed review of the filing to Erik. If Justin has changed his opinion, then I'm happy to have him review this instead of Erik. We just need this sorted out quickly so we can get one of them to review this today.

**From:** Baptist, Erik  
**Sent:** Wednesday, August 02, 2017 12:01 PM  
**To:** Bianco, Karen <Bianco.Karen@epa.gov>  
**Cc:** Mills, Derek <Mills.Derek@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>

**Subject:** RE: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

Karen,

I will defer to Justin on the motion and opposition. It is my understanding that he is not recused from this litigation.

**Erik Baptist**

Senior Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-1689

[baptist.erik@epa.gov](mailto:baptist.erik@epa.gov)

**From:** Bianco, Karen

**Sent:** Wednesday, August 2, 2017 10:35 AM

**To:** Baptist, Erik <[baptist.erik@epa.gov](mailto:baptist.erik@epa.gov)>

**Cc:** Mills, Derek <[Mills.Derek@epa.gov](mailto:Mills.Derek@epa.gov)>; Smith, Kristi <[Smith.Kristi@epa.gov](mailto:Smith.Kristi@epa.gov)>; Schmidt, Lorie <[Schmidt.Lorie@epa.gov](mailto:Schmidt.Lorie@epa.gov)>

**Subject:** 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

Attached is our motion to dismiss and opposition to petitioners' motion for summary vacatur

or, in the alternative, for stay of our extension of the deadline for promulgating designations for the 2015 ozone NAAQS. In the motion, we move to dismiss the petition for review on grounds of mootness based on EPA's withdrawal of the extension. The draft is quite short and to the point.

DOJ is asking for edits by the end of today in order to file by tomorrow's deadline.

Karen Bennett Bianco <sup>3</sup> U.S. Environmental Protection Agency

Attorney-Adviser <sup>3</sup> Office of General Counsel <sup>3</sup> WJCN 7426X <sup>3</sup> 202-564-3298

**To:** Smith, Kristi[Smith.Kristi@epa.gov]; Tierney, Jan[tierney.jan@epa.gov]  
**From:** Bianco, Karen  
**Sent:** Wed 8/2/2017 4:26:06 PM  
**Subject:** FW: Notice-withdraw extension of O3D deadline 7-27-17 \_MMG edits\_CLEAN.docx  
Notice-withdraw extension of O3D deadline 7-27-17 \_MMG edits\_CLEAN.docx  
ATT00001.txt

Message from Justin: Attached is the new third floor version. Please confirm receipt. Please incorporate OGC edits made on the prior circulation and resend to me for my review. At that point (ie without waiting for third floor/my approval) you can share with DOJ, but with the warning that it is still subject to change.

-----Original Message-----

From: Schwab, Justin  
Sent: Wednesday, August 02, 2017 12:22 PM  
To: Bianco, Karen <Bianco.Karen@epa.gov>  
Subject: Notice-withdraw extension of O3D deadline 7-27-17 \_MMG edits\_CLEAN.docx

**To:** Mills, Derek[Mills.Derek@epa.gov]  
**From:** Bianco, Karen  
**Sent:** Wed 8/2/2017 4:18:04 PM  
**Subject:** RE: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

Nm – looks like Justin has reviewed it.

**From:** Bianco, Karen  
**Sent:** Wednesday, August 02, 2017 12:06 PM  
**To:** Mills, Derek <Mills.Derek@epa.gov>  
**Subject:** FW: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur  
**Importance:** High

Derek, can you help me sort this out? Justin told us yesterday during reg review that he considered himself recused from this litigation because Arizona has expressed an intention to intervene. After Justin said that, we directed review of the filing to Erik. If Justin has changed his opinion, then I'm happy to have him review this instead of Erik. We just need this sorted out quickly so we can get one of them to review this today.

**From:** Baptist, Erik  
**Sent:** Wednesday, August 02, 2017 12:01 PM  
**To:** Bianco, Karen <[Bianco.Karen@epa.gov](mailto:Bianco.Karen@epa.gov)>  
**Cc:** Mills, Derek <[Mills.Derek@epa.gov](mailto:Mills.Derek@epa.gov)>; Smith, Kristi <[Smith.Kristi@epa.gov](mailto:Smith.Kristi@epa.gov)>; Schmidt, Lorie <[Schmidt.Lorie@epa.gov](mailto:Schmidt.Lorie@epa.gov)>; Schwab, Justin <[schwab.justin@epa.gov](mailto:schwab.justin@epa.gov)>  
**Subject:** RE: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

Karen,

I will defer to Justin on the motion and opposition. It is my understanding that he is not recused from this litigation.

**Erik Baptist**

Senior Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-1689

[baptist.erik@epa.gov](mailto:baptist.erik@epa.gov)

**From:** Bianco, Karen

**Sent:** Wednesday, August 2, 2017 10:35 AM

**To:** Baptist, Erik <[baptist.erik@epa.gov](mailto:baptist.erik@epa.gov)>

**Cc:** Mills, Derek <[Mills.Derek@epa.gov](mailto:Mills.Derek@epa.gov)>; Smith, Kristi <[Smith.Kristi@epa.gov](mailto:Smith.Kristi@epa.gov)>; Schmidt, Lorie <[Schmidt.Lorie@epa.gov](mailto:Schmidt.Lorie@epa.gov)>

**Subject:** 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

Attached is our motion to dismiss and opposition to petitioners' motion for summary vacatur or, in the alternative, for stay of our extension of the deadline for promulgating designations for the 2015 ozone NAAQS. In the motion, we move to dismiss the petition for review on grounds of mootness based on EPA's withdrawal of the extension. The draft is quite short and to the point.

DOJ is asking for edits by the end of today in order to file by tomorrow's deadline.

Karen Bennett Bianco <sup>3</sup> U.S. Environmental Protection Agency

Attorney-Adviser <sup>3</sup> Office of General Counsel <sup>3</sup> WJCN 7426X <sup>3</sup> 202-564-3298



**To:** Mills, Derek[Mills.Derek@epa.gov]  
**From:** Bianco, Karen  
**Sent:** Wed 8/2/2017 4:06:05 PM  
**Subject:** FW: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

Derek, can you help me sort this out? Justin told us yesterday during reg review that he considered himself recused from this litigation because Arizona has expressed an intention to intervene. After Justin said that, we directed review of the filing to Erik. If Justin has changed his opinion, then I'm happy to have him review this instead of Erik. We just need this sorted out quickly so we can get one of them to review this today.

**From:** Baptist, Erik  
**Sent:** Wednesday, August 02, 2017 12:01 PM  
**To:** Bianco, Karen <Bianco.Karen@epa.gov>  
**Cc:** Mills, Derek <Mills.Derek@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>  
**Subject:** RE: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

Karen,

I will defer to Justin on the motion and opposition. It is my understanding that he is not recused from this litigation.

**Erik Baptist**

Senior Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-1689



[baptist.erik@epa.gov](mailto:baptist.erik@epa.gov)

**From:** Bianco, Karen

**Sent:** Wednesday, August 2, 2017 10:35 AM

**To:** Baptist, Erik <[baptist.erik@epa.gov](mailto:baptist.erik@epa.gov)>

**Cc:** Mills, Derek <[Mills.Derek@epa.gov](mailto:Mills.Derek@epa.gov)>; Smith, Kristi <[Smith.Kristi@epa.gov](mailto:Smith.Kristi@epa.gov)>; Schmidt, Lorie <[Schmidt.Lorie@epa.gov](mailto:Schmidt.Lorie@epa.gov)>

**Subject:** 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

Attached is our motion to dismiss and opposition to petitioners' motion for summary vacatur or, in the alternative, for stay of our extension of the deadline for promulgating designations for the 2015 ozone NAAQS. In the motion, we move to dismiss the petition for review on grounds of mootness based on EPA's withdrawal of the extension. The draft is quite short and to the point.

DOJ is asking for edits by the end of today in order to file by tomorrow's deadline.

Karen Bennett Bianco <sup>3</sup> U.S. Environmental Protection Agency

Attorney-Adviser <sup>3</sup> Office of General Counsel <sup>3</sup> WJCN 7426X <sup>3</sup> 202-564-3298

**To:** Tierney, Jan[tierney.jan@epa.gov]  
**From:** Bianco, Karen  
**Sent:** Wed 8/2/2017 3:19:03 PM  
**Subject:** FW: Notice-withdraw extension of O3D deadline 7-27-17 \_MMG edits.docx  
Notice-withdraw extension of O3D deadline 7-27-17 \_MMG edits + KMS.docx

-----Original Message-----

From: Smith, Kristi  
Sent: Wednesday, August 02, 2017 11:12 AM  
To: Schwab, Justin <schwab.justin@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Bianco, Karen <Bianco.Karen@epa.gov>  
Subject: RE: Notice-withdraw extension of O3D deadline 7-27-17 \_MMG edits.docx

Here is my proposed response to Mandy's comment. I'm fine with the other edit.

Kristi M. Smith \* Assistant General Counsel for the NAAQS Implementation Group \* Air & Radiation Law Office \* US EPA, Office of General Counsel \* smith.kristi@epa.gov \* (202) 564-3068 \*

CONFIDENTIAL communication for internal deliberations only; may contain deliberative, attorney-client, attorney work product, or otherwise privileged material; do not distribute outside EPA or DOJ.

-----Original Message-----

From: Schwab, Justin  
Sent: Wednesday, August 02, 2017 10:25 AM  
To: Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>; Bianco, Karen <Bianco.Karen@epa.gov>  
Subject: Notice-withdraw extension of O3D deadline 7-27-17 \_MMG edits.docx  
Importance: High

Redline attached. This has not yet received final approval. Please discuss with me before circulating outside EPA.

**To:** Mills, Derek[Mills.Derek@epa.gov]  
**From:** Bianco, Karen  
**Sent:** Wed 8/2/2017 3:09:44 PM  
**Subject:** RE: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

Yes, sorry for not making that more clear. Lorie reviewed it and had no edits.

**From:** Mills, Derek  
**Sent:** Wednesday, August 02, 2017 11:06 AM  
**To:** Bianco, Karen <Bianco.Karen@epa.gov>  
**Subject:** RE: 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

This is for Erik, right? Lorie already reviewed? Thanks!

- Derek

**From:** Bianco, Karen  
**Sent:** Wednesday, August 02, 2017 10:35 AM  
**To:** Baptist, Erik <baptist.erik@epa.gov>  
**Cc:** Mills, Derek <Mills.Derek@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>  
**Subject:** 2015 ozone designation delay draft motion to dismiss and response to summary vacatur

Attached is our motion to dismiss and opposition to petitioners' motion for summary vacatur or, in the alternative, for stay of our extension of the deadline for promulgating designations for the 2015 ozone NAAQS. In the motion, we move to dismiss the petition for review on grounds of mootness based on EPA's withdrawal of the extension. The draft is quite short and to the point.

DOJ is asking for edits by the end of today in order to file by tomorrow's deadline.

Karen Bennett Bianco <sup>3</sup> U.S. Environmental Protection Agency

Attorney-Adviser <sup>3</sup> Office of General Counsel <sup>3</sup> WJCN 7426X <sup>3</sup> 202-564-3298

**To:** Tierney, Jan[tierney.jan@epa.gov]  
**From:** Bianco, Karen  
**Sent:** Wed 8/2/2017 3:09:33 PM  
**Subject:** FW: Notice-withdraw extension of O3D deadline 7-27-17 \_MMG edits.docx  
Notice-withdraw extension of O3D deadline 7-27-17 \_MMG edits.docx  
ATT00001.txt

-----Original Message-----

From: Schwab, Justin  
Sent: Wednesday, August 02, 2017 10:25 AM  
To: Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>;  
Smith, Kristi <Smith.Kristi@epa.gov>; Bianco, Karen <Bianco.Karen@epa.gov>  
Subject: Notice-withdraw extension of O3D deadline 7-27-17 \_MMG edits.docx

Redline attached. This has not yet received final approval. Please discuss with me before circulating outside EPA.

**Cc:** Mills, Derek[Mills.Derek@epa.gov]; Smith, Kristi[Smith.Kristi@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]  
**To:** Baptist, Erik[baptist.erik@epa.gov]  
**From:** Bianco, Karen  
**Sent:** Wed 8/2/2017 2:35:17 PM  
**Subject:** 2015 ozone designation delay draft motion to dismiss and response to summary vacatur  
Ozone Designations Extension Mootness Motion for front office review.docx  
ATT00001.htm

Attached is our motion to dismiss and opposition to petitioners' motion for summary vacatur or, in the alternative, for stay of our extension of the deadline for promulgating designations for the 2015 ozone NAAQS. In the motion, we move to dismiss the petition for review on grounds of mootness based on EPA's withdrawal of the extension. The draft is quite short and to the point.

DOJ is asking for edits by the end of today in order to file by tomorrow's deadline.

Karen Bennett Bianco <sup>3</sup> U.S. Environmental Protection Agency

Attorney-Adviser <sup>3</sup> Office of General Counsel <sup>3</sup> WJCN 7426X <sup>3</sup> 202-564-3298

**To:** Schmidt, Lorie[Schmidt.Lorie@epa.gov]  
**Cc:** Smith, Kristi[Smith.Kristi@epa.gov]  
**From:** Bianco, Karen  
**Sent:** Tue 8/1/2017 7:03:37 PM  
**Subject:** 2015 ozone designation delay draft motion to dismiss and response to summary vacatur  
Ozone Designations Extension Mootness Motion for front office review.docx

Attached is our motion to dismiss and opposition to petitioners' motion for summary vacatur or, in the alternative, for stay of our extension of the deadline for promulgating designations for the 2015 ozone NAAQS. In the motion, we move to dismiss the petition for review on grounds of mootness based on EPA's withdrawal of the extension. The draft is quite short and to the point. It was drafted by Norman Rave and has been reviewed by Jack.

Please send me your edits and comments and then I will pass this along to Erik for his review.

Karen Bennett Bianco <sup>3</sup> U.S. Environmental Protection Agency

Attorney-Adviser <sup>3</sup> Office of General Counsel <sup>3</sup> WJCN 7426X <sup>3</sup> 202-564-3298

**To:** Millett, John[Millett.John@epa.gov]; Page, Steve[Page.Steve@epa.gov]; Koerber, Mike[Koerber.Mike@epa.gov]; Lewis, Josh[Lewis.Josh@epa.gov]; Minoli, Kevin[Minoli.Kevin@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Smith, Kristi[Smith.Kristi@epa.gov]  
**From:** Dunham, Sarah  
**Sent:** Wed 8/2/2017 10:30:05 PM  
**Subject:** Fwd: Signed - Ozone Extension Withdrawal  
[Ozone Extension Withdrawal August 2 2017.pdf](#)  
[ATT00001.htm](#)

Sent from my iPhone

Begin forwarded message:

**From:** "Knapp, Kristien" <Knapp.Kristien@epa.gov>  
**To:** "Flynn, Mike" <Flynn.Mike@epa.gov>, "Jackson, Ryan" <jackson.ryan@epa.gov>, "Bowman, Liz" <Bowman.Liz@epa.gov>, "Lyons, Troy" <lyons.troy@epa.gov>, "Dravis, Samantha" <dravis.samantha@epa.gov>, "Graham, Amy" <graham.amy@epa.gov>, "Bennett, Tate" <Bennett.Tate@epa.gov>, "Dunham, Sarah" <Dunham.Sarah@epa.gov>, "Gunasekara, Mandy" <Gunasekara.Mandy@epa.gov>, "Schwab, Justin" <schwab.justin@epa.gov>, "Bolen, Brittany" <bolen.brittany@epa.gov>, "Reeder, John" <Reeder.John@epa.gov>, "Brown, Byron" <brown.byron@epa.gov>  
**Cc:** "Grantham, Nancy" <Grantham.Nancy@epa.gov>, "Richardson, RobinH" <Richardson.RobinH@epa.gov>, "Hull, George" <Hull.George@epa.gov>, "Lewis, Josh" <Lewis.Josh@epa.gov>, "Burden, Susan" <Burden.Susan@epa.gov>, "Owens, Nicole" <Owens.Nicole@epa.gov>, "Rees, Sarah" <rees.sarah@epa.gov>, "Smith, Kristi" <Smith.Kristi@epa.gov>, "Bianco, Karen" <Bianco.Karen@epa.gov>, "Nickerson, William" <Nickerson.William@epa.gov>, "Curry, Bridgid" <Curry.Bridgid@epa.gov>  
**Subject:** Signed - Ozone Extension Withdrawal

A Federal Register notice announcing a withdrawal of the 1-year extension of the deadline for promulgating initial area designations for the ozone national ambient air quality standards was signed today. A copy of the signed notice is attached. Please let me know if you have any questions.

Thanks,  
Kristien

Kristien Knapp  
Special Assistant (OAR, OITA, OGC, OP)  
Office of the Administrator  
(202) 564-3277



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR PART 81**

**[EPA-HQ-OAR-2017-0223; FRL- ]**

**Withdrawal of Extension of Deadline for Promulgating Designations for the 2015 Ozone National Ambient Air Quality Standards**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Withdrawal of extension of deadline for promulgating designations.

**SUMMARY:** The Environmental Protection Agency (EPA) is announcing that it is withdrawing the 1-year extension of the deadline for promulgating initial area designations for the ozone national ambient air quality standards (NAAQS) that were promulgated in October 2015. Thus, unless and until the Administrator takes additional final action, the 2-year deadline for promulgating designations provided in the Clean Air Act (CAA) applies.

**DATES:** The deadline for the EPA to promulgate initial designations for the 2015 ozone NAAQS is October 1, 2017.

**FOR FURTHER INFORMATION CONTACT:** For questions regarding this action, contact Carla Oldham, Air Quality Planning Division, Office of Air Quality Planning and Standards, Mail Code C539-04, Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-3347; email address: [oldham.carla@epa.gov](mailto:oldham.carla@epa.gov)

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this action apply to me?*

Entities potentially affected by this action include state, local and tribal governments that would participate in the initial area designation process for the 2015 ozone standards.

*B. Where can I get a copy of this document and other related information?*

The EPA has established a docket for designations for the 2015 ozone NAAQS under Docket ID No. EPA-HQ-OAR-2017-0223. All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, *e.g.*, confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue, NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the EPA Docket Center is (202) 566-1742.

An electronic copy of this notice is also available at <http://www.epa.gov/ozone-designations> along with other information related to designations for the 2015 ozone NAAQS.

## **II. Designations Requirements**

On October 1, 2015, the EPA signed a notice of final rulemaking that revised the 8-hour primary and secondary ozone NAAQS (80 FR 65292; October 26, 2015). Both standards were lowered from 0.075 parts per million (ppm) to a level of 0.070 ppm.

After the EPA establishes or revises a NAAQS pursuant to CAA section 109, the CAA directs the EPA and the states to begin taking steps to ensure that those NAAQS are met. The first step is to identify areas of the country that meet or do not meet that NAAQS. This step is known as the initial area designations. Section 107(d)(1)(A) of the CAA provides that, “By such date as the Administrator may reasonably require, but not later than 1 year after promulgation of

a new or revised national ambient air quality standard for any pollutant under section [109], the Governor of each State shall \* \* \* submit to the Administrator a list of all areas (or portions thereof) in the State” that designates those areas as nonattainment, attainment, or unclassifiable.

The CAA further provides, “Upon promulgation or revision of a national ambient air quality standard, the Administrator shall promulgate the designations of all areas (or portions thereof) \* \* \* as expeditiously as practicable, but in no case later than 2 years from the date of promulgation of the new or revised national ambient air quality standard. Such period may be extended for up to one year in the event the Administrator has insufficient information to promulgate the designations.” 42 U.S.C. § 7407(d)(1)(B)(i).

In the EPA guidance, “Area Designations for the 2015 Ozone National Ambient Air Quality Standards,” the EPA indicated it expected to complete the initial area designations by October 1, 2017, consistent with the statutory requirement that the EPA designate areas no later than 2 years following promulgation of a revised NAAQS.<sup>1</sup>

### **III. Withdrawal of Extension of Deadline for Promulgating Designations for the 2015 Ozone NAAQS**

In letters sent to states on June 6, 2017, and in a **Federal Register** notice published on June 28, 2017 (82 FR 29246), the EPA Administrator Scott Pruitt announced that he was using his authority under section 107(d)(1)(B)(i) of the CAA to extend by 1 year, to October 1, 2018, the deadline for promulgating initial area designations for the 2015 ozone NAAQS. At that time (i.e., in early June), it was not clear that the agency would be in the position to complete designations for all areas for the 2015 ozone NAAQS in accordance with the 2-year statutory

---

<sup>1</sup> Memorandum from Janet G. McCabe, Acting Assistant Administrator, to Regional Administrators, Regions 1-10. February 25, 2016.

deadline of October 1, 2017. For a variety of other NAAQS in the past, previous EPA Administrators have used the authority under section 107(d)(1)(B)(i) to take additional time to complete designations.<sup>2</sup> The Administrator decided to similarly invoke the extension with regard to designations for the 2015 ozone NAAQS.

The EPA has continued to discuss and work with states concerning designations, and now understands that the information gaps that formed the basis of the extension may not be as expansive as we previously believed. The EPA now intends to reassess whether there are areas with underlying technical issues, whether there are state designation recommendations that the EPA intends to modify, and whether for any area there is insufficient information to promulgate the designation. The EPA believes this reevaluation will help ensure that more Americans are living and working in areas that meet national air quality standards. The agency believes that there may be areas of the United States for which designations could be promulgated in the next few months. Therefore, the EPA is withdrawing its prior announced 1-year extension of the deadline for promulgating initial area designations for the 2015 ozone NAAQS, and the 2-year deadline for promulgating designations provided in section 107(d)(1)(B) of the CAA applies. The Administrator may still determine that an extension of time to complete designations is necessary, but is not making such a determination at this time.

---

<sup>2</sup> For the 2008 ozone NAAQS, *see* 75 FR 2936 (January 19, 2010); for the 2008 lead NAAQS, *see* 75 FR 71033 (November 22, 2010); for the 2010 sulfur dioxide NAAQS, *see* 77 FR 46295 (August 3, 2012); and for the 2012 fine particulate matter NAAQS, *see* 80 FR 2206 (January 15, 2015).

**Page 5 of 5 – Withdrawal of Extension of Deadline for Promulgating Designations for the 2015 Ozone National Ambient Air Quality Standards**

**LIST OF SUBJECTS IN 40 CFR PART 81**

Environmental protection, Air pollution control, National parks, Wilderness areas.

**AUG 02 2017**

\_\_\_\_\_  
Dated:

A handwritten signature in black ink, appearing to read "E. Scott Pruitt", is written over a horizontal line.

E. Scott Pruitt,  
Administrator.

**To:** Doster, Brian[Doster.Brian@epa.gov]; Graham, Cheryl[Graham.Cheryl@epa.gov]; Lee, Michael[lee.michaelg@epa.gov]; Rodman, Sonja[Rodman.Sonja@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Orlin, David[Orlin.David@epa.gov]; Smith, Kristi[Smith.Kristi@epa.gov]; Srinivasan, Gautam[Srinivasan.Gautam@epa.gov]  
**From:** Turley, Jennifer  
**Sent:** Wed 7/12/2017 6:29:03 PM  
**Subject:** American Lung Association, et al v. EPA, et al "Petition for Review" (EPA-82FR29246), US APP CADC 17-1172  
[Courtlink Document US APP CADC 17-1172 07.12.2017 \(Peition for Review\).pdf](#)  
[Courtlink Document US APP CADC 17-1172 07.12.2017 \(Certified Copy Sent\).pdf](#)  
[Courtlink Document US APP CADC 17-1172 07.12.2017 \(Order Filed\(CLERK\)\).pdf](#)

# United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

---

**No. 17-1172**

**September Term, 2016**

**EPA-82FR29246**

**Filed On: July 12, 2017** [1683715]

American Lung Association, et al.,

Petitioners

v.

Environmental Protection Agency and Scott  
Pruitt, Administrator, U.S. Environmental  
Protection Agency,

Respondents

## **NOTICE**

This case was docketed on July 12, 2017. The Environmental Protection Agency is hereby notified that the attached is a true copy of the petition for review, which was filed on July 12, 2017, in the United States Court of Appeals for the District of Columbia Circuit, in the above-captioned case.

The Clerk is directed to transmit a copy of this notice, along with the petition for review, to respondents.

**FOR THE COURT:**

Mark J. Langer, Clerk

BY: /s/

Amanda Himes  
Deputy Clerk

Attachment:

Certified Copy of Petition for Review

# United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

---

**No. 17-1172**

**September Term, 2016**

**EPA-82FR29246**

**Filed On: July 12, 2017** [1683717]

American Lung Association, et al.,

Petitioners

v.

Environmental Protection Agency and Scott  
Pruitt, Administrator, U.S. Environmental  
Protection Agency,

Respondents

## **ORDER**

The petition for review in this case was filed and docketed on July 12, 2017, and assigned the above number. It is, on the court's own motion,

**ORDERED** that petitioners submit the documents listed below by the dates indicated.

Certificate as to Parties, Rulings, and Related Cases	August 11, 2017
Docketing Statement Form	August 11, 2017
Procedural Motions, if any	August 11, 2017
Statement of Intent to Utilize Deferred Joint Appendix	August 11, 2017
Statement of Issues to be Raised	August 11, 2017
Underlying Decision from Which Appeal or Petition Arises	August 11, 2017
Dispositive Motions, if any (Original and 4 copies)	August 28, 2017

It is

**FURTHER ORDERED** that respondents submit the documents listed below by



# United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

---

**No. 17-1172**

**September Term, 2016**

the dates indicated.

Entry of Appearance Form	August 11, 2017
Procedural Motions, if any	August 11, 2017
Certified Index to the Record	August 28, 2017
Dispositive Motions, if any (Original and 4 copies)	August 28, 2017

It is

**FURTHER ORDERED** that briefing in this case be deferred pending further order of the court.

The Clerk is directed to transmit to respondents a copy of this order and a copy of the petition for review.

**FOR THE COURT:**

Mark J. Langer, Clerk

BY: /s/  
Amanda Himes  
Deputy Clerk

The following forms and notices are available on the Court's website:

[Agency Docketing Statement Form](#)

[Entry of Appearance Form](#)

[Request to Enter Appellate Mediation Program](#)

[Notice Concerning Expedition of Appeals and Petitions for Review](#)

[Stipulation to be Placed in Stand-By Pool of Cases](#)

**To:** Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]; Srinivasan, Gautam[Srinivasan.Gautam@epa.gov]; Dominguez, Alexander[dominguez.alexander@epa.gov]; Dunham, Sarah[Dunham.Sarah@epa.gov]; Lewis, Josh[Lewis.Josh@epa.gov]  
**Cc:** Kime, Robin[Kime.Robin@epa.gov]; Patrick, Monique[Patrick.Monique@epa.gov]; Hooks, Samantha[hooks.samantha@epa.gov]; Dickerson, Aaron[dickerson.aaron@epa.gov]; Inge, Carolyn[Inge.Carolyn@epa.gov]; Atkinson, Emily[Atkinson.Emily@epa.gov]; Loving, Shanita[Loving.Shanita@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Baptist, Erik[baptist.erik@epa.gov]  
**From:** Smith, Kristi  
**Sent:** Mon 7/10/2017 10:28:21 PM  
**Subject:** RE: Ozone Petition Discussion  
[FR notice - 2015 ozone designation extension - 82 FR 29246.pdf](#)

Per our meeting today, attached please find the Federal Register notice for the ozone designation extension. And below is a list of the recent designations extension with corresponding FR cites included.

- Kristi

●■■■■■■■■■ **2012 PM<sub>2.5</sub> NAAQS:** The December 2014 designations deadline was extended until December 2015 for several areas of the country pending a review of state monitoring network data quality procedures. *See* 80 FR 2206 (January 15, 2015) and 80 FR 18535 (April 7, 2015). Specifically, PM<sub>2.5</sub> monitoring data for 2011 and 2012 from some areas in Georgia, and throughout the entire states of Tennessee and Florida were incomplete due to quality assurance failures. Complete data became available in the remaining areas of Georgia and most of Florida by the end of calendar year 2015, and in August 2016 the EPA issued designations for these areas. *See* 81 FR 61136 (September 6, 2016 – areas in GA and FL). Although past the statutory extension deadline, at the end of calendar year 2016 complete data became available for the state of Tennessee, and the EPA is currently preparing to issue the designations for this state in 2017. Once the Tennessee designations are finalized, there will remain only 5 counties in Florida that are undesignated for the 2012 PM<sub>2.5</sub> NAAQS.

●■■■■■■■■■ **2010 SO<sub>2</sub> NAAQS:** The June 2012 designations deadline was extended until June 2013 for the entire country by EPA due to “significant uncertainty,” citing the need to resolve the approach for SO<sub>2</sub> implementation, including a comprehensive SO<sub>2</sub> air quality assessment strategy. *See* 78 FR 47191 (August 5, 2013). In August 2013, the Administrator issued nonattainment designations for 29 areas where the existing SO<sub>2</sub> monitoring network indicated

violations of the revised SO<sub>2</sub> NAAQS, and further deferred designations for the remainder of the country pending the EPA's effort to finalize a comprehensive SO<sub>2</sub> air quality assessment strategy. Under the terms of a settlement to a deadline suit brought by environmental groups, the Administrator issued designations for 65 additional areas in 2016. *See* 81 FR 45039 (July 12, 2016) and 81 FR 89870 (December 13, 2016). Under the terms of the settlement, the Administrator is required to issue designations for most of the remainder of the U.S. by the end of 2017, and the remaining areas by the end of 2020.

●■■■■■■■■■ **2008 Lead NAAQS:** The October 2010, designations deadline was extended until October 2011, for most of the country to enable states to finish establishing a new network of lead monitors required for sources of lead emissions greater than 1 ton per year. *See* 75 FR 71033 (November 22, 2010). In October 2010, nonattainment designations were issued for 16 areas where the existing lead monitoring network indicated violations of the 2008 lead NAAQS. Designations were completed for all remaining areas of the U.S. in October 2011.<sup>[1]</sup> *See* 76 FR 72097 (November 22, 2011).

●■■■■■■■■■ **2008 Ozone NAAQS:** The March 2010 designations deadline was extended until March 2011 for the entire country because EPA announced in September 2009 an intention to reconsider the 0.075 ppm standard that had been established in 2008. *See* 75 FR 2936 (January 19, 2010). In that action, EPA stated that it had insufficient information to promulgate the designations because of the significant uncertainty that the reconsideration proposal created regarding the continued applicability of the 2008 ozone NAAQS. In September 2011, EPA announced that the reconsideration would not be completed, and implementation of the 2008 NAAQS would move forward. A deadline suit from public health and environmental groups followed, and litigants agreed to settle on a May 31, 2012, deadline. The Administrator issued ozone designations for the entire country in the spring of 2012. *See* 77 FR 30087 (May 21, 2012) and 77 FR 34221 (June 11, 2012). At the same time EPA issued the designations, EPA issued the rule establishing the method of classification for areas for the 2008 ozone NAAQS. *See* 77 FR 30160 (May 21, 2012).

Kristi M. Smith \* Assistant General Counsel for the NAAQS Implementation Group \* Air & Radiation Law Office \* US EPA, Office of General Counsel \* smith.kristi@epa.gov \* (202) 564-3068 \*

CONFIDENTIAL communication for internal deliberations only; may contain deliberative, attorney-client, attorney work product, or otherwise privileged material; do not distribute outside EPA or DOJ.

-----Original Appointment-----

**From:** Gunasekara, Mandy

**Sent:** Friday, July 07, 2017 1:09 PM

**To:** Gunasekara, Mandy; Dravis, Samantha; Bolen, Brittany; Schwab, Justin; Fotouhi, David; Srinivasan, Gautam; Smith, Kristi; Dominguez, Alexander; Dunham, Sarah; Lewis, Josh

**Cc:** Kime, Robin; Patrick, Monique; Hooks, Samantha; Dickerson, Aaron; Inge, Carolyn; Atkinson, Emily; Loving, Shanita; Schmidt, Lorie; Baptist, Erik

**Subject:** Ozone Petition Discussion

**When:** Monday, July 10, 2017 4:00 PM-5:00 PM (UTC-05:00) Eastern Time (US & Canada).

**Where:** 3530 WJC North

---

[1] The form of the lead standard requires as few as 3 months of monitoring data in order to determine an area is out of compliance. States had established new monitoring networks starting in 2010 for sources of lead required by EPA regulations to be monitored. This allowed additional monitoring data to be gathered for calendar year 2010 and the beginning of 2011 to inform designations for the remainder of the country.

withdrawn or denied. The proceeds of any such fees will be used to pay the remaining portion of the Agency's cost of providing credit assistance and the costs of retaining expert firms, including financial, engineering, and legal services, in the field of municipal and project finance, to assist in the underwriting of the Federal credit instrument. All of, or a portion of, this fee may be waived.

(d) *Servicing fee.* EPA will require borrowers to pay a servicing fee for each credit instrument approved for funding. Separate fees may apply for each type of credit instrument (e.g., a loan guarantee, a secured loan with a single disbursement, or a secured loan with multiple disbursements), depending on the costs of servicing the credit instrument as determined by the Administrator. Such fees will be set at a level sufficient to enable the EPA to recover all or a portion of the costs to the Federal Government of servicing WJFA credit instruments.

(e) *Optional supplemental fee.* If, in any given year, there is insufficient budget authority to fund the credit instrument for a qualified project that has been selected to receive assistance under WIFIA, EPA and the approved applicant may agree upon a supplemental fee to be paid by or on behalf of the approved applicant at the time of execution of the term sheet to reduce the subsidy cost of that project. No such fee may be included among eligible project costs.

(f) *Reduced fees.* To the extent that Congress appropriates funds in any given year beyond those sufficient to cover internal administrative costs, EPA may utilize such appropriated funds to reduce fees that would otherwise be charged under paragraph (c) of this section.

(g) *Extraordinary expenses.* EPA may require payment in full by the borrower of additional fees, in an amount determined by EPA, and of related fees and expenses of its independent consultants and outside counsel, to the extent that such fees and expenses are incurred directly by EPA and to the extent such third parties are not paid directly by the borrower, in the event that a borrower experiences difficulty relating to technical, financial, or legal matters or other events (e.g., engineering failure or financial workouts) which require EPA to incur time or expenses beyond standard monitoring.

[FR Doc. 2017-13438 Filed 6-27-17; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION  
AGENCY

## 40 CFR PART 81

[EPA-HQ-OAR-2017-0223; FRL-9964-37-OAR]

## Extension of Deadline for Promulgating Designations for the 2015 Ozone National Ambient Air Quality Standards

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Extension of deadline for promulgating designations.

**SUMMARY:** The Environmental Protection Agency (EPA) is announcing that it is using its authority under the Clean Air Act (CAA) to extend by 1 year the deadline for promulgating initial area designations for the ozone national ambient air quality standards (NAAQS) that were promulgated in October 2015. The new deadline is October 1, 2018.

**DATES:** The deadline for the EPA to promulgate initial designations for the 2015 ozone NAAQS is October 1, 2018.

**FOR FURTHER INFORMATION CONTACT:** For questions regarding this action, contact Denise Scott, Air Quality Planning Division, Office of Air Quality Planning and Standards, Mail Code C539-04, Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-4208; email address: [scott.denise@epa.gov](mailto:scott.denise@epa.gov).

**SUPPLEMENTARY INFORMATION:**

## I. General Information

A. Does this action apply to me?

Entities potentially affected by this action include state, local and tribal governments that would participate in the initial area designation process for the 2015 ozone standards.

***B. Where can I get a copy of this document and other related information?***

The EPA has established a docket for designations for the 2015 ozone NAAQS under Docket ID No. EPA-HQ-OAR-2017-0223. All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov>

*www.regulations.gov* or in hard copy at the EPA Docket Center EPA/DC, EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the EPA Docket Center is (202) 566-1742.

An electronic copy of this notice is also available at <http://www.epa.gov/ozone-designations> along with other information related to designations for the 2015 ozone NAAQS.

## II. Designations Requirements

On October 1, 2015, the EPA signed a notice of final rulemaking that revised the 8-hour primary and secondary ozone NAAQS (80 FR 65292; October 26, 2015). The primary standard was lowered from 0.075 parts per million (ppm) to a level of 0.070 ppm. The EPA also revised the secondary standard by making it identical in all respects to the revised primary standard. (The previous ozone NAAQS were set in 2008 and remain effective.)

After the EPA establishes or revises a NAAQS pursuant to CAA section 109, the CAA directs the EPA and the states to begin taking steps to ensure that those NAAQS are met. The first step is to identify areas of the country that do not meet the new or revised NAAQS. This step is known as the initial area designations. Section 107(d)(1)(A) of the CAA provides that, "By such date as the Administrator may reasonably require, but not later than 1 year after promulgation of a new or revised national ambient air quality standard for any pollutant under section [109], the Governor of each State shall \* \* \* submit to the Administrator a list of all areas (or portions thereof) in the State" that designates those areas as nonattainment, attainment, or unclassifiable. The CAA defines an area as nonattainment if it is violating the NAAQS or if it is contributing to a violation in a nearby area. 42 U.S.C. 7407(d)(1)(A)(i).

The CAA further provides, “Upon promulgation or revision of a national ambient air quality standard, the Administrator shall promulgate the designations of all areas (or portions thereof) \* \* \* as expeditiously as practicable, but in no case later than 2 years from the date of promulgation of the new or revised national ambient air quality standard. Such period may be extended for up to one year in the event the Administrator has insufficient information to promulgate the

designations.” 42 U.S.C. 7407(d)(1)(B)(i).

After the states submit their recommendations, but no later than 120 days prior to promulgating designations, the EPA is required to notify a state of any intended modifications to the state’s recommended designation. The state then has an opportunity to demonstrate why any proposed modification is inappropriate. Whether or not a state provides a recommendation, the EPA must promulgate the designation that the agency deems appropriate within 2 years of promulgation of the NAAQS (or within 3 years if the EPA extends the deadline).

For the 2015 ozone NAAQS, the deadline for states to submit designation recommendations to the EPA for their areas was October 1, 2016. The EPA has been evaluating these recommendations and conducting additional analyses to determine whether it is necessary to modify any of the state recommendations.

### **III. Extension of Deadline for Promulgating Designations for the 2015 NAAQS**

In this action, the EPA is announcing that it is using its authority under

section 107(d)(1)(B)(i) of the CAA to extend by 1 year the deadline for promulgating initial area designations for the 2015 ozone NAAQS. The new deadline is October 1, 2018. For the reasons explained in this notice, the EPA Administrator has determined that there is insufficient information to complete the designations by October 1, 2017.

Following the recent change in administrations, the agency is currently evaluating a host of complex issues regarding the 2015 ozone NAAQS and its implementation, such as understanding the role of background ozone levels and appropriately accounting for international transport. The Administrator has determined that he cannot assess whether he has the necessary information to finalize designations until additional analyses from this evaluation are available. In addition, pursuant to language in the recently-enacted Fiscal Year 2017 omnibus bill, the Administrator is establishing an Ozone Cooperative Compliance Task Force to develop additional flexibilities for states to comply with the ozone standard. It is possible the outcome of that effort could identify flexibilities that could impact

the designations process. In light of the analyses currently underway at the agency, the Administrator has determined he needs additional time to consider completely all designation recommendations provided by state governors pursuant to CAA section 107(d)(1)(A), including full consideration of exceptional events impacting designations, and determine whether they provide sufficient information to finalize designations. We also note that new agency officials are currently reviewing the 2015 ozone NAAQS rule. The Administrator has determined that in light of the uncertainty of the outcome of that review, there is insufficient information to promulgate designations by October 1, 2017.

### **List of Subjects in 40 CFR Part 81**

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: June 21, 2017.

**E. Scott Pruitt,**  
*Administrator.*

[FR Doc. 2017–13437 Filed 6–27–17; 8:45 am]

BILLING CODE 6560–50–P

**From:** Smith, Kristi  
**Location:** 4045; conf. line 866-299-3188; Code 202-564-3068#  
**Importance:** Normal  
**Subject:** Follow-up ozone extension discussion with Kevin Minoli  
**Start Date/Time:** Fri 7/14/2017 7:30:00 PM  
**End Date/Time:** Fri 7/14/2017 8:30:00 PM  
[Designations delay Briefing Sheet 7.13.17.docx](#)  
[Recent Designation Extensions.docx](#)  
[Designations Process Generally.docx](#)  
[Ozone Extension Stay Response – Strawman schedule.docx](#)

## Designation Process Generally

- Under CAA § 107(d), designations are established through cooperative process with the states.
  - For ozone, EPA has established the parameters of that process – including the information necessary to designate areas – in:
    - 40 CFR Part 50, Appendix U (promulgated with the 2015 ozone NAAQS): addressing monitoring data, and
    - EPA’s 2015 ozone designation guidance (issued Feb. 2016): addressing the analysis to determine nearby areas contributing to nonattainment.
- Not later than 1 year after NAAQS are promulgated, States provide designation recommendations.
  - States recommend both (1) designation status and (2) boundaries of the areas.
- EPA evaluates the state information.
  - If EPA intends to promulgate a designation different from a state’s recommendation (either status or boundaries), then the CAA requires EPA to:
    - notify the state at least 120 days prior to promulgating the final designation and
    - provide the state an opportunity to comment on the intended modification.
  - EPA usually fulfills this obligation through “120 day letters” to governors with accompanying Technical Support Documents (TSDs) for areas EPA intends to designate as nonattainment and an FR Notice.
    - Although required to send 120 day letters only to states with which we disagree with the recommendation and allow them to comment, we generally
      - send them to all states and
      - provide general public notice and comment (CAA § 107(d)(2)(B) provides that designation actions “shall not be subject to the [APA notice and comment] provisions, except nothing herein shall be construed as precluding such public notice and comment whenever possible”).
- Not later than 2 years after NAAQS are promulgated, EPA considers any information submitted by states and public comments and issues final designations.
  - The Administrator can extend the deadline by one year if there is “insufficient information to promulgate the designations” (CAA § 107(d)(1)(B)(i)).
  - At the time of final designations, EPA also issues final TSDs.
  - For ozone, at the time of final designations, areas are classified by operation of law based on a separate classification rule interpreting how the statutory classifications in CAA § 181(a)(1) will apply for the relevant NAAQS.
    - Classifications are marginal, moderate, serious, severe, and extreme, and are based on level of ozone pollution above the NAAQS with successively later attainment dates for each higher classification.
    - The classification rule needs to be issued no later than the date of the final designations.



## Ozone Extension Stay Response – Strawman schedule

July 14 – Briefing on procedural options moving forward

July 18 – Briefing on “insufficient information”

July 19 - Decision made on path forward

[4 days for staff-level drafting, seeking of additional information from management as needed, and review through mid-level management]

July 25 – To OAR IO/OGC IO for review (1 day, including incorporating comments into clean draft)

July 26 – To OP for review (1 day)

July 27 – To OEX for review (1 day)

### **July 28 – Signature**

July 31 – DOJ response to stay motion due\*

\*assumes a 7-day extension from our current response date (July 24).

## RECENT HISTORY OF 1-YEAR DESIGNATIONS EXTENSIONS

- **2012 PM<sub>2.5</sub> NAAQS:** The December 2014 designations deadline was extended until December 2015 for several areas of the country pending a review of state monitoring network data quality procedures. *See* 80 FR 2206 (January 15, 2015) and 80 FR 18535 (April 7, 2015). Specifically, PM<sub>2.5</sub> monitoring data for 2011 and 2012 from some areas in Georgia, and throughout the entire states of Tennessee and Florida were incomplete due to quality assurance failures. Complete data became available in the remaining areas of Georgia and most of Florida by the end of calendar year 2015, and in August 2016 the EPA issued designations for these areas. *See* 81 FR 61136 (September 6, 2016 – areas in GA and FL). Although past the statutory extension deadline, at the end of calendar year 2016 complete data became available for the state of Tennessee, and the EPA is currently preparing to issue the designations for this state in 2017. Once the Tennessee designations are finalized, there will remain only 5 counties in Florida that are undesignated for the 2012 PM<sub>2.5</sub> NAAQS.
- **2010 SO<sub>2</sub> NAAQS:** The June 2012 designations deadline was extended until June 2013 for the entire country by EPA due to “significant uncertainty,” citing the need to resolve the approach for SO<sub>2</sub> implementation, including a comprehensive SO<sub>2</sub> air quality assessment strategy. *See* 78 FR 47191 (August 5, 2013). In August 2013, the Administrator issued nonattainment designations for 29 areas where the existing SO<sub>2</sub> monitoring network indicated violations of the revised SO<sub>2</sub> NAAQS, and further deferred designations for the remainder of the country pending the EPA’s effort to finalize a comprehensive SO<sub>2</sub> air quality assessment strategy. Under the terms of a settlement to a deadline suit brought by environmental groups, the Administrator issued designations for 65 additional areas in 2016. *See* 81 FR 45039 (July 12, 2016) and 81 FR 89870 (December 13, 2016). Under the terms of the settlement, the Administrator is required to issue designations for most of the remainder of the U.S. by the end of 2017, and the remaining areas by the end of 2020.
- **2008 Lead NAAQS:** The October 2010, designations deadline was extended until October 2011, for most of the country to enable states to finish establishing a new network of lead monitors required for sources of lead emissions greater than 1 ton per year. *See* 75 FR 71033 (November 22, 2010). In October 2010, nonattainment designations were issued for 16 areas where the existing lead monitoring network indicated violations of the 2008 lead NAAQS. Designations were completed for all remaining areas of the U.S. in October 2011.<sup>1</sup> *See* 76 FR 72097 (November 22, 2011).
- **2008 Ozone NAAQS:** The March 2010 designations deadline was extended until March 2011 for the entire country because EPA announced in September 2009 an intention to reconsider the 0.075 ppm standard that had been established in 2008. *See* 75 FR 2936 (January 19, 2010). In that action, EPA stated that it had insufficient information to promulgate the designations because of the significant uncertainty that the reconsideration proposal created regarding the continued applicability of the 2008 ozone NAAQS. In September 2011, EPA announced that the reconsideration would not be completed, and implementation of the 2008 NAAQS would move forward. A deadline suit from public health and environmental groups followed, and litigants agreed to settle on a May 31, 2012, deadline. The Administrator issued ozone designations for the entire country in the spring of 2012. *See* 77 FR 30087 (May 21, 2012) and 77 FR 34221 (June 11, 2012). At the same time EPA issued the designations, EPA issued the rule establishing the method of classification for areas for the 2008 ozone NAAQS. *See* 77 FR 30160 (May 21, 2012).

<sup>1</sup> The form of the lead standard requires as few as 3 months of monitoring data in order to determine an area is out of compliance. States had established new monitoring networks starting in 2010 for sources of lead required by EPA regulations to be monitored. This allowed additional monitoring data to be gathered for calendar year 2010 and the beginning of 2011 to inform designations for the remainder of the country.

**From:** Smith, Kristi  
**Location:** 4045; conf. line 866-299-3188; Code 202-564-3068#  
**Importance:** Normal  
**Subject:** Follow-up ozone extension discussion with Kevin Minoli  
**Start Date/Time:** Fri 7/14/2017 7:30:00 PM  
**End Date/Time:** Fri 7/14/2017 8:30:00 PM  
[Designations delay Briefing Sheet 7.13.17.docx](#)  
[Recent Designation Extensions.docx](#)  
[Designations Process Generally.docx](#)  
[Ozone Extension Stay Response – Strawman schedule.docx](#)

## Designation Process Generally

- Under CAA § 107(d), designations are established through cooperative process with the states.
  - For ozone, EPA has established the parameters of that process – including the information necessary to designate areas – in:
    - 40 CFR Part 50, Appendix U (promulgated with the 2015 ozone NAAQS): addressing monitoring data, and
    - EPA’s 2015 ozone designation guidance (issued Feb. 2016): addressing the analysis to determine nearby areas contributing to nonattainment.
- Not later than 1 year after NAAQS are promulgated, States provide designation recommendations.
  - States recommend both (1) designation status and (2) boundaries of the areas.
- EPA evaluates the state information.
  - If EPA intends to promulgate a designation different from a state’s recommendation (either status or boundaries), then the CAA requires EPA to:
    - notify the state at least 120 days prior to promulgating the final designation and
    - provide the state an opportunity to comment on the intended modification.
  - EPA usually fulfills this obligation through “120 day letters” to governors with accompanying Technical Support Documents (TSDs) for areas EPA intends to designate as nonattainment and an FR Notice.
    - Although required to send 120 day letters only to states with which we disagree with the recommendation and allow them to comment, we generally
      - send them to all states and
      - provide general public notice and comment (CAA § 107(d)(2)(B) provides that designation actions “shall not be subject to the [APA notice and comment] provisions, except nothing herein shall be construed as precluding such public notice and comment whenever possible”).
- Not later than 2 years after NAAQS are promulgated, EPA considers any information submitted by states and public comments and issues final designations.
  - The Administrator can extend the deadline by one year if there is “insufficient information to promulgate the designations” (CAA § 107(d)(1)(B)(i)).
  - At the time of final designations, EPA also issues final TSDs.
  - For ozone, at the time of final designations, areas are classified by operation of law based on a separate classification rule interpreting how the statutory classifications in CAA § 181(a)(1) will apply for the relevant NAAQS.
    - Classifications are marginal, moderate, serious, severe, and extreme, and are based on level of ozone pollution above the NAAQS with successively later attainment dates for each higher classification.
    - The classification rule needs to be issued no later than the date of the final designations.

## Ozone Extension Stay Response – Strawman schedule

July 14 – Briefing on procedural options moving forward

July 18 – Briefing on “insufficient information”

July 19 - Decision made on path forward

[4 days for staff-level drafting, seeking of additional information from management as needed, and review through mid-level management]

July 25 – To OAR IO/OGC IO for review (1 day, including incorporating comments into clean draft)

July 26 – To OP for review (1 day)

July 27 – To OEX for review (1 day)

### **July 28 – Signature**

July 31 – DOJ response to stay motion due\*

\*assumes a 7-day extension from our current response date (July 24).

## RECENT HISTORY OF 1-YEAR DESIGNATIONS EXTENSIONS

- **2012 PM<sub>2.5</sub> NAAQS:** The December 2014 designations deadline was extended until December 2015 for several areas of the country pending a review of state monitoring network data quality procedures. *See* 80 FR 2206 (January 15, 2015) and 80 FR 18535 (April 7, 2015). Specifically, PM<sub>2.5</sub> monitoring data for 2011 and 2012 from some areas in Georgia, and throughout the entire states of Tennessee and Florida were incomplete due to quality assurance failures. Complete data became available in the remaining areas of Georgia and most of Florida by the end of calendar year 2015, and in August 2016 the EPA issued designations for these areas. *See* 81 FR 61136 (September 6, 2016 – areas in GA and FL). Although past the statutory extension deadline, at the end of calendar year 2016 complete data became available for the state of Tennessee, and the EPA is currently preparing to issue the designations for this state in 2017. Once the Tennessee designations are finalized, there will remain only 5 counties in Florida that are undesignated for the 2012 PM<sub>2.5</sub> NAAQS.
- **2010 SO<sub>2</sub> NAAQS:** The June 2012 designations deadline was extended until June 2013 for the entire country by EPA due to “significant uncertainty,” citing the need to resolve the approach for SO<sub>2</sub> implementation, including a comprehensive SO<sub>2</sub> air quality assessment strategy. *See* 78 FR 47191 (August 5, 2013). In August 2013, the Administrator issued nonattainment designations for 29 areas where the existing SO<sub>2</sub> monitoring network indicated violations of the revised SO<sub>2</sub> NAAQS, and further deferred designations for the remainder of the country pending the EPA’s effort to finalize a comprehensive SO<sub>2</sub> air quality assessment strategy. Under the terms of a settlement to a deadline suit brought by environmental groups, the Administrator issued designations for 65 additional areas in 2016. *See* 81 FR 45039 (July 12, 2016) and 81 FR 89870 (December 13, 2016). Under the terms of the settlement, the Administrator is required to issue designations for most of the remainder of the U.S. by the end of 2017, and the remaining areas by the end of 2020.
- **2008 Lead NAAQS:** The October 2010, designations deadline was extended until October 2011, for most of the country to enable states to finish establishing a new network of lead monitors required for sources of lead emissions greater than 1 ton per year. *See* 75 FR 71033 (November 22, 2010). In October 2010, nonattainment designations were issued for 16 areas where the existing lead monitoring network indicated violations of the 2008 lead NAAQS. Designations were completed for all remaining areas of the U.S. in October 2011.<sup>1</sup> *See* 76 FR 72097 (November 22, 2011).
- **2008 Ozone NAAQS:** The March 2010 designations deadline was extended until March 2011 for the entire country because EPA announced in September 2009 an intention to reconsider the 0.075 ppm standard that had been established in 2008. *See* 75 FR 2936 (January 19, 2010). In that action, EPA stated that it had insufficient information to promulgate the designations because of the significant uncertainty that the reconsideration proposal created regarding the continued applicability of the 2008 ozone NAAQS. In September 2011, EPA announced that the reconsideration would not be completed, and implementation of the 2008 NAAQS would move forward. A deadline suit from public health and environmental groups followed, and litigants agreed to settle on a May 31, 2012, deadline. The Administrator issued ozone designations for the entire country in the spring of 2012. *See* 77 FR 30087 (May 21, 2012) and 77 FR 34221 (June 11, 2012). At the same time EPA issued the designations, EPA issued the rule establishing the method of classification for areas for the 2008 ozone NAAQS. *See* 77 FR 30160 (May 21, 2012).

<sup>1</sup> The form of the lead standard requires as few as 3 months of monitoring data in order to determine an area is out of compliance. States had established new monitoring networks starting in 2010 for sources of lead required by EPA regulations to be monitored. This allowed additional monitoring data to be gathered for calendar year 2010 and the beginning of 2011 to inform designations for the remainder of the country.

**To:** Jackson, Ryan[jackson.ryan@epa.gov]  
**Cc:** Bolen, Brittany[bolen.brittany@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]  
**From:** Bowman, Liz  
**Sent:** Wed 8/2/2017 11:02:38 PM  
**Subject:** RE: FINAL withdraw of Extension for Ozone Designations.docx

Sorry for the emails crossing, Mandy and I talked and we are going to go ahead and put it out tonight since notifications are going out.

**From:** Jackson, Ryan  
**Sent:** Wednesday, August 2, 2017 6:53 PM  
**To:** Bowman, Liz <Bowman.Liz@epa.gov>  
**Cc:** Bolen, Brittany <bolen.brittany@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>  
**Subject:** Re: FINAL withdraw of Extension for Ozone Designations.docx

Ok that's good too.

---

Ryan Jackson

Chief of Staff

U.S. EPA

(202) 564-6999

On Aug 2, 2017, at 5:52 PM, Bowman, Liz <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)> wrote:

I think we are going to go ahead and send it tonight, since its uploaded and ready to go and we want to make sure our message is out there.

**From:** Jackson, Ryan  
**Sent:** Wednesday, August 2, 2017 6:51 PM  
**To:** Bowman, Liz <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)>  
**Cc:** Bolen, Brittany <[bolen.brittany@epa.gov](mailto:bolen.brittany@epa.gov)>; Gunasekara, Mandy

<Gunasekara.Mandy@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>  
**Subject:** Re: FINAL withdraw of Extension for Ozone Designations.docx

Tomorrow seems fine.

---

Ryan Jackson

Chief of Staff

U.S. EPA

(202) 564-6999

On Aug 2, 2017, at 5:46 PM, Bowman, Liz <Bowman.Liz@epa.gov> wrote:

Do you want me to wait until tomorrow am or get it out now?

**From:** Jackson, Ryan

**Sent:** Wednesday, August 2, 2017 6:46 PM

**To:** Bowman, Liz <Bowman.Liz@epa.gov>

**Cc:** Bolen, Brittany <bolen.brittany@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>

**Subject:** Re: FINAL withdraw of Extension for Ozone Designations.docx

Thanks

---

Ryan Jackson

Chief of Staff

U.S. EPA

(202) 564-6999



On Aug 2, 2017, at 5:44 PM, Bowman, Liz <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)> wrote:

The final Ozone release is going out shortly, this includes Brittany's edits.

**From:** Bowman, Liz

**Sent:** Wednesday, August 2, 2017 6:39 PM

**To:** [hewitt.james@epa.gov](mailto:hewitt.james@epa.gov)

**Subject:** 2017-08-02 FINAL withdraw of Extension for Ozone Designations.docx

## **EPA CONTINUES TO WORK WITH STATES ON 2015 OZONE DESIGNATIONS**

*EPA continues to work with states on technical issues, disputed  
designations and insufficient information*

WASHINGTON – The U.S. Environmental Protection Agency (EPA) is moving forward with 2015 ozone designations, working with states to help areas with underlying technical issues, disputed designations, and/or insufficient information. This will help ensure that more Americans are living and working in areas that meet national ambient air quality standards (NAAQS).

“We believe in dialogue with, and being responsive to, our state partners. Today’s action reinforces our commitment to working with the states through the complex designation process,” said **EPA Administrator Scott Pruitt**.

The Clean Air Act gives EPA the flexibility to allow one additional year for sufficient information to support ozone designations. EPA may take future action to use its delay authority and all other authority legally available to the Agency to ensure that its designations are founded on sound policy and the best available information.

Earlier this summer, it was evident that the Agency would not meet the October 1 deadline to designate all areas, due to underlying complexities, methodological,

and informational questions with regard to this new ozone NAAQS standard. For example, the question of whether or not this ozone NAAQS was set so low as to implicate natural "background" ozone levels in some parts of the country has repeatedly been raised.

In June, EPA issued a Federal Register notice announcing that it was delaying its deadline for designations by one year, from October 1, 2017 to October 1, 2018. Previous EPA administrations had repeatedly invoked this statutory power to delay designations for part or all of the country. Today's announcement replaces our earlier action that delayed the Agency's designation deadline on a nationwide basis and clarifies our path forward, so that the Agency can be more responsive to local needs.

"Under previous Administrations, EPA would often fail to meet designation deadlines, and then wait to be sued by activist groups and others, agreeing in a settlement to set schedules for designation," said **EPA Administrator Scott Pruitt**. "We do not believe in regulation through litigation, and we take deadlines seriously. We also take the statute and the authority it gives us seriously."

###

<2017-08-02 FINAL withdraw of Extension for Ozone Designations.docx>

**To:** Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]  
**Cc:** Bolen, Brittany[bolen.brittany@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]  
**From:** Bowman, Liz  
**Sent:** Wed 8/2/2017 10:53:33 PM  
**Subject:** RE: FINAL withdraw of Extension for Ozone Designations.docx

Okay, tomorrow am it is. Thanks all.

**From:** Gunasekara, Mandy  
**Sent:** Wednesday, August 2, 2017 6:53 PM  
**To:** Jackson, Ryan <jackson.ryan@epa.gov>  
**Cc:** Bowman, Liz <Bowman.Liz@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>  
**Subject:** Re: FINAL withdraw of Extension for Ozone Designations.docx

Agreed, tomorrow morning. If you want to give politico morning energy a heads up, that could be good to get in front of messaging.

Sent from my iPhone

On Aug 2, 2017, at 6:50 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

Tomorrow seems fine.

---

Ryan Jackson

Chief of Staff

U.S. EPA

(202) 564-6999

On Aug 2, 2017, at 5:46 PM, Bowman, Liz <Bowman.Liz@epa.gov> wrote:

Do you want me to wait until tomorrow am or get it out now?

**From:** Jackson, Ryan  
**Sent:** Wednesday, August 2, 2017 6:46 PM  
**To:** Bowman, Liz <[Bowman.Liz@epa.gov](mailto: Bowman.Liz@epa.gov)>  
**Cc:** Bolen, Brittany <[bolen.brittany@epa.gov](mailto: bolen.brittany@epa.gov)>; Gunasekara, Mandy <[Gunasekara.Mandy@epa.gov](mailto: Gunasekara.Mandy@epa.gov)>; Schwab, Justin <[schwab.justin@epa.gov](mailto: schwab.justin@epa.gov)>; Fotouhi, David <[fotouhi.david@epa.gov](mailto: fotouhi.david@epa.gov)>; Dravis, Samantha <[dravis.samantha@epa.gov](mailto: dravis.samantha@epa.gov)>  
**Subject:** Re: FINAL withdraw of Extension for Ozone Designations.docx

Thanks

---

Ryan Jackson

Chief of Staff

U.S. EPA

(202) 564-6999

On Aug 2, 2017, at 5:44 PM, Bowman, Liz <[Bowman.Liz@epa.gov](mailto: Bowman.Liz@epa.gov)> wrote:

The final Ozone release is going out shortly, this includes Brittany's edits.

**From:** Bowman, Liz  
**Sent:** Wednesday, August 2, 2017 6:39 PM  
**To:** [hewitt.james@epa.gov](mailto: hewitt.james@epa.gov)  
**Subject:** 2017-08-02 FINAL withdraw of Extension for Ozone Designations.docx

## **EPA CONTINUES TO WORK WITH STATES ON 2015 OZONE DESIGNATIONS**

*EPA continues to work with states on technical issues, disputed  
designations and insufficient information*

WASHINGTON – The U.S. Environmental Protection Agency (EPA) is moving forward with 2015 ozone designations, working with states to help areas with

underlying technical issues, disputed designations, and/or insufficient information. This will help ensure that more Americans are living and working in areas that meet national ambient air quality standards (NAAQS).

“We believe in dialogue with, and being responsive to, our state partners. Today’s action reinforces our commitment to working with the states through the complex designation process,” said **EPA Administrator Scott Pruitt**.

The Clean Air Act gives EPA the flexibility to allow one additional year for sufficient information to support ozone designations. EPA may take future action to use its delay authority and all other authority legally available to the Agency to ensure that its designations are founded on sound policy and the best available information.

Earlier this summer, it was evident that the Agency would not meet the October 1 deadline to designate all areas, due to underlying complexities, methodological, and informational questions with regard to this new ozone NAAQS standard. For example, the question of whether or not this ozone NAAQS was set so low as to implicate natural "background" ozone levels in some parts of the country has repeatedly been raised.

In June, EPA issued a Federal Register notice announcing that it was delaying its deadline for designations by one year, from October 1, 2017 to October 1, 2018. Previous EPA administrations had repeatedly invoked this statutory power to delay designations for part or all of the country. Today’s announcement replaces our earlier action that delayed the Agency's designation deadline on a nationwide basis and clarifies our path forward, so that the Agency can be more responsive to local needs.

“Under previous Administrations, EPA would often fail to meet designation deadlines, and then wait to be sued by activist groups and others, agreeing in a settlement to set schedules for designation,” said **EPA Administrator Scott Pruitt**. “We do not believe in regulation through litigation, and we take deadlines seriously. We also take the statute and the authority it gives us seriously.”

###

<2017-08-02 FINAL withdraw of Extension for Ozone Designations.docx>

**To:** Bowman, Liz[Bowman.Liz@epa.gov]  
**Cc:** Bolen, Brittany[bolen.brittany@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]  
**From:** Jackson, Ryan  
**Sent:** Wed 8/2/2017 10:53:23 PM  
**Subject:** Re: FINAL withdraw of Extension for Ozone Designations.docx

Ok that's good too.

---

Ryan Jackson  
Chief of Staff  
U.S. EPA  
(202) 564-6999

On Aug 2, 2017, at 5:52 PM, Bowman, Liz <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)> wrote:

I think we are going to go ahead and send it tonight, since its uploaded and ready to go and we want to make sure our message is out there.

**From:** Jackson, Ryan  
**Sent:** Wednesday, August 2, 2017 6:51 PM  
**To:** Bowman, Liz <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)>  
**Cc:** Bolen, Brittany <[bolen.brittany@epa.gov](mailto:bolen.brittany@epa.gov)>; Gunasekara, Mandy <[Gunasekara.Mandy@epa.gov](mailto:Gunasekara.Mandy@epa.gov)>; Schwab, Justin <[schwab.justin@epa.gov](mailto:schwab.justin@epa.gov)>; Fotouhi, David <[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)>; Dravis, Samantha <[dravis.samantha@epa.gov](mailto:dravis.samantha@epa.gov)>  
**Subject:** Re: FINAL withdraw of Extension for Ozone Designations.docx

Tomorrow seems fine.

---

Ryan Jackson  
Chief of Staff  
U.S. EPA  
(202) 564-6999

On Aug 2, 2017, at 5:46 PM, Bowman, Liz <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)> wrote:

Do you want me to wait until tomorrow am or get it out now?

**From:** Jackson, Ryan  
**Sent:** Wednesday, August 2, 2017 6:46 PM  
**To:** Bowman, Liz <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)>  
**Cc:** Bolen, Brittany <[bolen.brittany@epa.gov](mailto:bolen.brittany@epa.gov)>; Gunasekara, Mandy <[Gunasekara.Mandy@epa.gov](mailto:Gunasekara.Mandy@epa.gov)>; Schwab, Justin <[schwab.justin@epa.gov](mailto:schwab.justin@epa.gov)>; Fotouhi, David <[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)>; Dravis, Samantha <[dravis.samantha@epa.gov](mailto:dravis.samantha@epa.gov)>  
**Subject:** Re: FINAL withdraw of Extension for Ozone Designations.docx

Thanks

---

Ryan Jackson

Chief of Staff

U.S. EPA

(202) 564-6999

On Aug 2, 2017, at 5:44 PM, Bowman, Liz <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)> wrote:

The final Ozone release is going out shortly, this includes Brittany's edits.

**From:** Bowman, Liz  
**Sent:** Wednesday, August 2, 2017 6:39 PM  
**To:** [hewitt.james@epa.gov](mailto:hewitt.james@epa.gov)  
**Subject:** 2017-08-02 FINAL withdraw of Extension for Ozone Designations.docx

## **EPA CONTINUES TO WORK WITH STATES ON 2015 OZONE DESIGNATIONS**

*EPA continues to work with states on technical issues, disputed  
designations and insufficient information*



WASHINGTON – The U.S. Environmental Protection Agency (EPA) is moving forward with 2015 ozone designations, working with states to help areas with underlying technical issues, disputed designations, and/or insufficient information. This will help ensure that more Americans are living and working in areas that meet national ambient air quality standards (NAAQS).

“We believe in dialogue with, and being responsive to, our state partners. Today’s action reinforces our commitment to working with the states through the complex designation process,” said **EPA Administrator Scott Pruitt**.

The Clean Air Act gives EPA the flexibility to allow one additional year for sufficient information to support ozone designations. EPA may take future action to use its delay authority and all other authority legally available to the Agency to ensure that its designations are founded on sound policy and the best available information.

Earlier this summer, it was evident that the Agency would not meet the October 1 deadline to designate all areas, due to underlying complexities, methodological, and informational questions with regard to this new ozone NAAQS standard. For example, the question of whether or not this ozone NAAQS was set so low as to implicate natural "background" ozone levels in some parts of the country has repeatedly been raised.

In June, EPA issued a Federal Register notice announcing that it was delaying its deadline for designations by one year, from October 1, 2017 to October 1, 2018. Previous EPA administrations had repeatedly invoked this statutory power to delay designations for part or all of the country. Today’s announcement replaces our earlier action that delayed the Agency's designation deadline on a nationwide basis and clarifies our path forward, so that the Agency can be more responsive to local needs.

“Under previous Administrations, EPA would often fail to meet designation deadlines, and then wait to be sued by activist groups and others, agreeing in a

settlement to set schedules for designation,” said **EPA Administrator Scott Pruitt**. “We do not believe in regulation through litigation, and we take deadlines seriously. We also take the statute and the authority it gives us seriously.”

###

<2017-08-02 FINAL withdraw of Extension for Ozone Designations.docx>

**To:** Jackson, Ryan[jackson.ryan@epa.gov]  
**Cc:** Bowman, Liz[Bowman.Liz@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]  
**From:** Gunasekara, Mandy  
**Sent:** Wed 8/2/2017 10:52:45 PM  
**Subject:** Re: FINAL withdraw of Extension for Ozone Designations.docx

Agreed, tomorrow morning. If you want to give politico morning energy a heads up, that could be good to get in front of messaging.

Sent from my iPhone

On Aug 2, 2017, at 6:50 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

Tomorrow seems fine.

---

Ryan Jackson  
Chief of Staff  
U.S. EPA  
(202) 564-6999

On Aug 2, 2017, at 5:46 PM, Bowman, Liz <Bowman.Liz@epa.gov> wrote:

Do you want me to wait until tomorrow am or get it out now?

**From:** Jackson, Ryan  
**Sent:** Wednesday, August 2, 2017 6:46 PM  
**To:** Bowman, Liz <Bowman.Liz@epa.gov>  
**Cc:** Bolen, Brittany <bolen.brittany@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>  
**Subject:** Re: FINAL withdraw of Extension for Ozone Designations.docx

Thanks

---

Ryan Jackson

Chief of Staff

U.S. EPA

(202) 564-6999

On Aug 2, 2017, at 5:44 PM, Bowman, Liz <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)> wrote:

The final Ozone release is going out shortly, this includes Brittany's edits.

**From:** Bowman, Liz

**Sent:** Wednesday, August 2, 2017 6:39 PM

**To:** [hewitt.james@epa.gov](mailto:hewitt.james@epa.gov)

**Subject:** 2017-08-02 FINAL withdraw of Extension for Ozone Designations.docx

## **EPA CONTINUES TO WORK WITH STATES ON 2015 OZONE DESIGNATIONS**

*EPA continues to work with states on technical issues, disputed  
designations and insufficient information*

WASHINGTON – The U.S. Environmental Protection Agency (EPA) is moving forward with 2015 ozone designations, working with states to help areas with underlying technical issues, disputed designations, and/or insufficient information. This will help ensure that more Americans are living and working in areas that meet national ambient air quality standards (NAAQS).

“We believe in dialogue with, and being responsive to, our state partners. Today’s action reinforces our commitment to working with the states through the complex designation process,” said **EPA Administrator Scott Pruitt**.

The Clean Air Act gives EPA the flexibility to allow one additional year for sufficient information to support ozone designations. EPA may take future action to use its delay authority and all other authority legally available to the Agency to ensure that its designations are founded on sound policy and the best available

information.

Earlier this summer, it was evident that the Agency would not meet the October 1 deadline to designate all areas, due to underlying complexities, methodological, and informational questions with regard to this new ozone NAAQS standard. For example, the question of whether or not this ozone NAAQS was set so low as to implicate natural "background" ozone levels in some parts of the country has repeatedly been raised.

In June, EPA issued a Federal Register notice announcing that it was delaying its deadline for designations by one year, from October 1, 2017 to October 1, 2018. Previous EPA administrations had repeatedly invoked this statutory power to delay designations for part or all of the country. Today's announcement replaces our earlier action that delayed the Agency's designation deadline on a nationwide basis and clarifies our path forward, so that the Agency can be more responsive to local needs.

"Under previous Administrations, EPA would often fail to meet designation deadlines, and then wait to be sued by activist groups and others, agreeing in a settlement to set schedules for designation," said **EPA Administrator Scott Pruitt**. "We do not believe in regulation through litigation, and we take deadlines seriously. We also take the statute and the authority it gives us seriously."

###

<2017-08-02 FINAL withdraw of Extension for Ozone Designations.docx>

**To:** Jackson, Ryan[jackson.ryan@epa.gov]  
**Cc:** Bolen, Brittany[bolen.brittany@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]  
**From:** Bowman, Liz  
**Sent:** Wed 8/2/2017 10:52:22 PM  
**Subject:** RE: FINAL withdraw of Extension for Ozone Designations.docx

I think we are going to go ahead and send it tonight, since its uploaded and ready to go and we want to make sure our message is out there.

**From:** Jackson, Ryan  
**Sent:** Wednesday, August 2, 2017 6:51 PM  
**To:** Bowman, Liz <Bowman.Liz@epa.gov>  
**Cc:** Bolen, Brittany <bolen.brittany@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>  
**Subject:** Re: FINAL withdraw of Extension for Ozone Designations.docx

Tomorrow seems fine.

---

Ryan Jackson

Chief of Staff

U.S. EPA

(202) 564-6999

On Aug 2, 2017, at 5:46 PM, Bowman, Liz <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)> wrote:

Do you want me to wait until tomorrow am or get it out now?

**From:** Jackson, Ryan  
**Sent:** Wednesday, August 2, 2017 6:46 PM  
**To:** Bowman, Liz <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)>  
**Cc:** Bolen, Brittany <[bolen.brittany@epa.gov](mailto:bolen.brittany@epa.gov)>; Gunasekara, Mandy <[Gunasekara.Mandy@epa.gov](mailto:Gunasekara.Mandy@epa.gov)>; Schwab, Justin <[schwab.justin@epa.gov](mailto:schwab.justin@epa.gov)>; Fotouhi,

David <[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)>; Dravis, Samantha <[dravis.samantha@epa.gov](mailto:dravis.samantha@epa.gov)>  
**Subject:** Re: FINAL withdraw of Extension for Ozone Designations.docx

Thanks

---

Ryan Jackson

Chief of Staff

U.S. EPA

(202) 564-6999

On Aug 2, 2017, at 5:44 PM, Bowman, Liz <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)> wrote:

The final Ozone release is going out shortly, this includes Brittany's edits.

**From:** Bowman, Liz

**Sent:** Wednesday, August 2, 2017 6:39 PM

**To:** [hewitt.james@epa.gov](mailto:hewitt.james@epa.gov)

**Subject:** 2017-08-02 FINAL withdraw of Extension for Ozone Designations.docx

## **EPA CONTINUES TO WORK WITH STATES ON 2015 OZONE DESIGNATIONS**

*EPA continues to work with states on technical issues, disputed  
designations and insufficient information*

WASHINGTON – The U.S. Environmental Protection Agency (EPA) is moving forward with 2015 ozone designations, working with states to help areas with underlying technical issues, disputed designations, and/or insufficient information. This will help ensure that more Americans are living and working in areas that meet national ambient air quality standards (NAAQS).

“We believe in dialogue with, and being responsive to, our state partners. Today’s action reinforces our commitment to working with the states through the complex designation process,” said **EPA Administrator Scott Pruitt**.

The Clean Air Act gives EPA the flexibility to allow one additional year for sufficient information to support ozone designations. EPA may take future action to use its delay authority and all other authority legally available to the Agency to ensure that its designations are founded on sound policy and the best available information.

Earlier this summer, it was evident that the Agency would not meet the October 1 deadline to designate all areas, due to underlying complexities, methodological, and informational questions with regard to this new ozone NAAQS standard. For example, the question of whether or not this ozone NAAQS was set so low as to implicate natural “background” ozone levels in some parts of the country has repeatedly been raised.

In June, EPA issued a Federal Register notice announcing that it was delaying its deadline for designations by one year, from October 1, 2017 to October 1, 2018. Previous EPA administrations had repeatedly invoked this statutory power to delay designations for part or all of the country. Today’s announcement replaces our earlier action that delayed the Agency’s designation deadline on a nationwide basis and clarifies our path forward, so that the Agency can be more responsive to local needs.

“Under previous Administrations, EPA would often fail to meet designation deadlines, and then wait to be sued by activist groups and others, agreeing in a settlement to set schedules for designation,” said **EPA Administrator Scott Pruitt**. “We do not believe in regulation through litigation, and we take deadlines seriously. We also take the statute and the authority it gives us seriously.”

###

<2017-08-02 FINAL withdraw of Extension for Ozone Designations.docx>



**To:** Jackson, Ryan[jackson.ryan@epa.gov]  
**Cc:** Bowman, Liz[Bowman.Liz@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]  
**From:** Gunasekara, Mandy  
**Sent:** Wed 8/2/2017 10:51:52 PM  
**Subject:** Re: FINAL withdraw of Extension for Ozone Designations.docx

I think this is good. Great work!

Sent from my iPhone

On Aug 2, 2017, at 6:45 PM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

Thanks

---

Ryan Jackson  
Chief of Staff  
U.S. EPA  
(202) 564-6999

On Aug 2, 2017, at 5:44 PM, Bowman, Liz <Bowman.Liz@epa.gov> wrote:

The final Ozone release is going out shortly, this includes Brittany's edits.

**From:** Bowman, Liz  
**Sent:** Wednesday, August 2, 2017 6:39 PM  
**To:** hewitt.james@epa.gov  
**Subject:** 2017-08-02 FINAL withdraw of Extension for Ozone Designations.docx

## **EPA CONTINUES TO WORK WITH STATES ON 2015 OZONE DESIGNATIONS**

*EPA continues to work with states on technical issues, disputed designations and insufficient information*

WASHINGTON – The U.S. Environmental Protection Agency (EPA) is moving

forward with 2015 ozone designations, working with states to help areas with underlying technical issues, disputed designations, and/or insufficient information. This will help ensure that more Americans are living and working in areas that meet national ambient air quality standards (NAAQS).

“We believe in dialogue with, and being responsive to, our state partners. Today’s action reinforces our commitment to working with the states through the complex designation process,” said **EPA Administrator Scott Pruitt**.

The Clean Air Act gives EPA the flexibility to allow one additional year for sufficient information to support ozone designations. EPA may take future action to use its delay authority and all other authority legally available to the Agency to ensure that its designations are founded on sound policy and the best available information.

Earlier this summer, it was evident that the Agency would not meet the October 1 deadline to designate all areas, due to underlying complexities, methodological, and informational questions with regard to this new ozone NAAQS standard. For example, the question of whether or not this ozone NAAQS was set so low as to implicate natural “background” ozone levels in some parts of the country has repeatedly been raised.

In June, EPA issued a Federal Register notice announcing that it was delaying its deadline for designations by one year, from October 1, 2017 to October 1, 2018. Previous EPA administrations had repeatedly invoked this statutory power to delay designations for part or all of the country. Today’s announcement replaces our earlier action that delayed the Agency’s designation deadline on a nationwide basis and clarifies our path forward, so that the Agency can be more responsive to local needs.

“Under previous Administrations, EPA would often fail to meet designation deadlines, and then wait to be sued by activist groups and others, agreeing in a settlement to set schedules for designation,” said **EPA Administrator Scott Pruitt**. “We do not believe in regulation through litigation, and we take deadlines seriously. We also take the statute and the authority it gives us seriously.”

###

<2017-08-02 FINAL withdraw of Extension for Ozone Designations.docx>

**To:** Bowman, Liz[Bowman.Liz@epa.gov]  
**Cc:** Bolen, Brittany[bolen.brittany@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]  
**From:** Jackson, Ryan  
**Sent:** Wed 8/2/2017 10:50:36 PM  
**Subject:** Re: FINAL withdraw of Extension for Ozone Designations.docx

Tomorrow seems fine.

---

Ryan Jackson  
Chief of Staff  
U.S. EPA  
(202) 564-6999

On Aug 2, 2017, at 5:46 PM, Bowman, Liz <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)> wrote:

Do you want me to wait until tomorrow am or get it out now?

**From:** Jackson, Ryan  
**Sent:** Wednesday, August 2, 2017 6:46 PM  
**To:** Bowman, Liz <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)>  
**Cc:** Bolen, Brittany <[bolen.brittany@epa.gov](mailto:bolen.brittany@epa.gov)>; Gunasekara, Mandy <[Gunasekara.Mandy@epa.gov](mailto:Gunasekara.Mandy@epa.gov)>; Schwab, Justin <[schwab.justin@epa.gov](mailto:schwab.justin@epa.gov)>; Fotouhi, David <[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)>; Dravis, Samantha <[dravis.samantha@epa.gov](mailto:dravis.samantha@epa.gov)>  
**Subject:** Re: FINAL withdraw of Extension for Ozone Designations.docx

Thanks

---

Ryan Jackson  
Chief of Staff  
U.S. EPA  
(202) 564-6999

On Aug 2, 2017, at 5:44 PM, Bowman, Liz <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)> wrote:

The final Ozone release is going out shortly, this includes Brittany's edits.

**From:** Bowman, Liz

**Sent:** Wednesday, August 2, 2017 6:39 PM

**To:** [hewitt.james@epa.gov](mailto:hewitt.james@epa.gov)

**Subject:** 2017-08-02 FINAL withdraw of Extension for Ozone Designations.docx

## **EPA CONTINUES TO WORK WITH STATES ON 2015 OZONE DESIGNATIONS**

*EPA continues to work with states on technical issues, disputed designations and insufficient information*

WASHINGTON – The U.S. Environmental Protection Agency (EPA) is moving forward with 2015 ozone designations, working with states to help areas with underlying technical issues, disputed designations, and/or insufficient information. This will help ensure that more Americans are living and working in areas that meet national ambient air quality standards (NAAQS).

“We believe in dialogue with, and being responsive to, our state partners. Today’s action reinforces our commitment to working with the states through the complex designation process,” said **EPA Administrator Scott Pruitt**.

The Clean Air Act gives EPA the flexibility to allow one additional year for sufficient information to support ozone designations. EPA may take future action to use its delay authority and all other authority legally available to the Agency to ensure that its designations are founded on sound policy and the best available information.

Earlier this summer, it was evident that the Agency would not meet the October 1 deadline to designate all areas, due to underlying complexities, methodological, and informational questions with regard to this new ozone NAAQS standard. For example, the question of whether or not this ozone NAAQS was set so low as to implicate natural "background" ozone levels in some parts of the country has repeatedly been

raised.

In June, EPA issued a Federal Register notice announcing that it was delaying its deadline for designations by one year, from October 1, 2017 to October 1, 2018. Previous EPA administrations had repeatedly invoked this statutory power to delay designations for part or all of the country. Today's announcement replaces our earlier action that delayed the Agency's designation deadline on a nationwide basis and clarifies our path forward, so that the Agency can be more responsive to local needs.

“Under previous Administrations, EPA would often fail to meet designation deadlines, and then wait to be sued by activist groups and others, agreeing in a settlement to set schedules for designation,” said **EPA Administrator Scott Pruitt**. “We do not believe in regulation through litigation, and we take deadlines seriously. We also take the statute and the authority it gives us seriously.”

###

<2017-08-02 FINAL withdraw of Extension for Ozone Designations.docx>

**To:** Jackson, Ryan[jackson.ryan@epa.gov]  
**Cc:** Bolen, Brittany[bolen.brittany@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]  
**From:** Bowman, Liz  
**Sent:** Wed 8/2/2017 10:46:32 PM  
**Subject:** RE: FINAL withdraw of Extension for Ozone Designations.docx

Do you want me to wait until tomorrow am or get it out now?

**From:** Jackson, Ryan  
**Sent:** Wednesday, August 2, 2017 6:46 PM  
**To:** Bowman, Liz <Bowman.Liz@epa.gov>  
**Cc:** Bolen, Brittany <bolen.brittany@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>  
**Subject:** Re: FINAL withdraw of Extension for Ozone Designations.docx

Thanks

---

Ryan Jackson

Chief of Staff

U.S. EPA

(202) 564-6999

On Aug 2, 2017, at 5:44 PM, Bowman, Liz <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)> wrote:

The final Ozone release is going out shortly, this includes Brittany's edits.

**From:** Bowman, Liz  
**Sent:** Wednesday, August 2, 2017 6:39 PM  
**To:** [hewitt.james@epa.gov](mailto:hewitt.james@epa.gov)  
**Subject:** 2017-08-02 FINAL withdraw of Extension for Ozone Designations.docx

## **EPA CONTINUES TO WORK WITH STATES ON 2015 OZONE DESIGNATIONS**

*EPA continues to work with states on technical issues, disputed designations and insufficient information*

WASHINGTON – The U.S. Environmental Protection Agency (EPA) is moving forward with 2015 ozone designations, working with states to help areas with underlying technical issues, disputed designations, and/or insufficient information. This will help ensure that more Americans are living and working in areas that meet national ambient air quality standards (NAAQS).

“We believe in dialogue with, and being responsive to, our state partners. Today’s action reinforces our commitment to working with the states through the complex designation process,” said **EPA Administrator Scott Pruitt**.

The Clean Air Act gives EPA the flexibility to allow one additional year for sufficient information to support ozone designations. EPA may take future action to use its delay authority and all other authority legally available to the Agency to ensure that its designations are founded on sound policy and the best available information.

Earlier this summer, it was evident that the Agency would not meet the October 1 deadline to designate all areas, due to underlying complexities, methodological, and informational questions with regard to this new ozone NAAQS standard. For example, the question of whether or not this ozone NAAQS was set so low as to implicate natural "background" ozone levels in some parts of the country has repeatedly been raised.

In June, EPA issued a Federal Register notice announcing that it was delaying its deadline for designations by one year, from October 1, 2017 to October 1, 2018. Previous EPA administrations had repeatedly invoked this statutory power to delay designations for part or all of the country. Today’s announcement replaces our earlier action that delayed the Agency's designation deadline on a nationwide basis and clarifies our path forward, so that the Agency can be more responsive to local needs.



“Under previous Administrations, EPA would often fail to meet designation deadlines, and then wait to be sued by activist groups and others, agreeing in a settlement to set schedules for designation,” said **EPA Administrator Scott Pruitt**. “We do not believe in regulation through litigation, and we take deadlines seriously. We also take the statute and the authority it gives us seriously.”

###

<2017-08-02 FINAL withdraw of Extension for Ozone Designations.docx>

**To:** Bowman, Liz[Bowman.Liz@epa.gov]  
**Cc:** Bolen, Brittany[bolen.brittany@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]  
**From:** Jackson, Ryan  
**Sent:** Wed 8/2/2017 10:45:45 PM  
**Subject:** Re: FINAL withdraw of Extension for Ozone Designations.docx

Thanks

---

Ryan Jackson  
Chief of Staff  
U.S. EPA  
(202) 564-6999

On Aug 2, 2017, at 5:44 PM, Bowman, Liz <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)> wrote:

The final Ozone release is going out shortly, this includes Brittany's edits.

**From:** Bowman, Liz  
**Sent:** Wednesday, August 2, 2017 6:39 PM  
**To:** [hewitt.james@epa.gov](mailto:hewitt.james@epa.gov)  
**Subject:** 2017-08-02 FINAL withdraw of Extension for Ozone Designations.docx

## **EPA CONTINUES TO WORK WITH STATES ON 2015 OZONE DESIGNATIONS**

*EPA continues to work with states on technical issues, disputed designations and insufficient information*

WASHINGTON – The U.S. Environmental Protection Agency (EPA) is moving forward with 2015 ozone designations, working with states to help areas with underlying technical issues, disputed designations, and/or insufficient information. This will help ensure that more Americans are living and working in areas that meet national ambient air quality standards (NAAQS).

“We believe in dialogue with, and being responsive to, our state partners. Today’s action reinforces our commitment to working with the states through the complex designation process,” said **EPA Administrator Scott Pruitt**.

The Clean Air Act gives EPA the flexibility to allow one additional year for sufficient information to support ozone designations. EPA may take future action to use its delay authority and all other authority legally available to the Agency to ensure that its designations are founded on sound policy and the best available information.

Earlier this summer, it was evident that the Agency would not meet the October 1 deadline to designate all areas, due to underlying complexities, methodological, and informational questions with regard to this new ozone NAAQS standard. For example, the question of whether or not this ozone NAAQS was set so low as to implicate natural “background” ozone levels in some parts of the country has repeatedly been raised.

In June, EPA issued a Federal Register notice announcing that it was delaying its deadline for designations by one year, from October 1, 2017 to October 1, 2018. Previous EPA administrations had repeatedly invoked this statutory power to delay designations for part or all of the country. Today’s announcement replaces our earlier action that delayed the Agency's designation deadline on a nationwide basis and clarifies our path forward, so that the Agency can be more responsive to local needs.

“Under previous Administrations, EPA would often fail to meet designation deadlines, and then wait to be sued by activist groups and others, agreeing in a settlement to set schedules for designation,” said **EPA Administrator Scott Pruitt**. “We do not believe in regulation through litigation, and we take deadlines seriously. We also take the statute and the authority it gives us seriously.”

###

<2017-08-02 FINAL withdraw of Extension for Ozone Designations.docx>

**To:** Jackson, Ryan[jackson.ryan@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]  
**From:** Bowman, Liz  
**Sent:** Wed 8/2/2017 10:44:44 PM  
**Subject:** FINAL withdraw of Extension for Ozone Designations.docx  
2017-08-02 FINAL withdraw of Extension for Ozone Designations.docx

The final Ozone release is going out shortly, this includes Brittany's edits.

**From:** Bowman, Liz  
**Sent:** Wednesday, August 2, 2017 6:39 PM  
**To:** hewitt.james@epa.gov  
**Subject:** 2017-08-02 FINAL withdraw of Extension for Ozone Designations.docx

## **EPA CONTINUES TO WORK WITH STATES ON 2015 OZONE DESIGNATIONS**

*EPA continues to work with states on technical issues, disputed designations and insufficient information*

WASHINGTON – The U.S. Environmental Protection Agency (EPA) is moving forward with 2015 ozone designations, working with states to help areas with underlying technical issues, disputed designations, and/or insufficient information. This will help ensure that more Americans are living and working in areas that meet national ambient air quality standards (NAAQS).

“We believe in dialogue with, and being responsive to, our state partners. Today’s action reinforces our commitment to working with the states through the complex designation process,” said **EPA Administrator Scott Pruitt**.

The Clean Air Act gives EPA the flexibility to allow one additional year for sufficient information to support ozone designations. EPA may take future action to use its delay authority and all other authority legally available to the Agency to ensure that its designations are founded on sound policy and the best available information.

Earlier this summer, it was evident that the Agency would not meet the October 1 deadline to designate all areas, due to underlying complexities, methodological, and informational questions with regard to this new ozone NAAQS standard. For example, the question of whether or not this ozone NAAQS was set so low as to implicate natural "background" ozone levels in some parts of the country has repeatedly been raised.

In June, EPA issued a Federal Register notice announcing that it was delaying its deadline for designations by one year, from October 1, 2017 to October 1, 2018. Previous EPA administrations had repeatedly invoked this statutory power to delay designations for part or all of the country. Today's announcement replaces our earlier action that delayed the Agency's designation deadline on a nationwide basis and clarifies our path forward, so that the Agency can be more responsive to local needs.

"Under previous Administrations, EPA would often fail to meet designation deadlines, and then wait to be sued by activist groups and others, agreeing in a settlement to set schedules for designation," said **EPA Administrator Scott Pruitt**. "We do not believe in regulation through litigation, and we take deadlines seriously. We also take the statute and the authority it gives us seriously."

###

## **EPA CONTINUES TO WORK WITH STATES ON 2015 OZONE DESIGNATIONS**

*EPA continues to work with states on technical issues, disputed designations and insufficient information*

WASHINGTON – The U.S. Environmental Protection Agency (EPA) is moving forward with 2015 ozone designations, working with states to help areas with underlying technical issues, disputed designations, and/or insufficient information. This will help ensure that more Americans are living and working in areas that meet national ambient air quality standards (NAAQS).

“We believe in dialogue with, and being responsive to, our state partners. Today’s action reinforces our commitment to working with the states through the complex designation process,” said **EPA Administrator Scott Pruitt**.

The Clean Air Act gives EPA the flexibility to allow one additional year for sufficient information to support ozone designations. EPA may take future action to use its delay authority and all other authority legally available to the Agency to ensure that its designations are founded on sound policy and the best available information.

Earlier this summer, it was evident that the Agency would not meet the October 1 deadline to designate all areas, due to underlying complexities, methodological, and informational questions with regard to this new ozone NAAQS standard. For example, the question of whether or not this ozone NAAQS was set so low as to implicate natural “background” ozone levels in some parts of the country has repeatedly been raised.

In June, EPA issued a Federal Register notice announcing that it was delaying its deadline for designations by one year, from October 1, 2017 to October 1, 2018. Previous EPA administrations had repeatedly invoked this statutory power to delay designations for part or all of the country. Today’s announcement replaces our earlier action that delayed the Agency’s designation deadline on a nationwide basis and clarifies our path forward, so that the Agency can be more responsive to local needs.

“Under previous Administrations, EPA would often fail to meet designation deadlines, and then wait to be sued by activist groups and others, agreeing in a settlement to set schedules for designation,” said **EPA Administrator Scott Pruitt**. “We do not believe in regulation through litigation, and we take deadlines seriously. We also take the statute and the authority it gives us seriously.”

###

**To:** Szabo, Aaron L. EOP/OMB[Aaron\_L\_Szabo@omb.eop.gov]; John.S.Moran@who.eop.gov[John.S.Moran@who.eop.gov]; Laity, Jim A. EOP/OMB[James\_A.\_Laity@omb.eop.gov]; Campau, Anthony P. EOP/OMB[Anthony.P.Campau@omb.eop.gov]; Mancini, Dominic J. EOP/OMB[Dominic\_J.\_Mancini@omb.eop.gov]; Catanzaro, Michael J. EOP/WHO[Michael.J.Catanzaro@who.eop.gov]  
**Cc:** Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Baptist, Erik[baptist.erik@epa.gov]; Dravis, Samantha[dravis.samantha@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]  
**From:** Bolen, Brittany  
**Sent:** Wed 8/2/2017 8:06:10 PM  
**Subject:** RE: [Notice-withdraw extension of O3D MMG final edits CLEAN.DOCX](#)

Attached is the final version we are in the process of preparing for signature.

-----Original Message-----

From: Bolen, Brittany  
Sent: Wednesday, August 2, 2017 4:03 PM  
To: 'Szabo, Aaron L. EOP/OMB' <Aaron\_L\_Szabo@omb.eop.gov>; 'John.S.Moran@who.eop.gov' <John.S.Moran@who.eop.gov>; Laity, Jim A. EOP/OMB <James\_A.\_Laity@omb.eop.gov>; Campau, Anthony P. EOP/OMB <Anthony.P.Campau@omb.eop.gov>; Mancini, Dominic J. EOP/OMB <Dominic\_J.\_Mancini@omb.eop.gov>; Catanzaro, Michael J. EOP/WHO <Michael.J.Catanzaro@who.eop.gov>  
Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>  
Subject: RE:  
Importance: High

All -- if there are any concerns with the notice please let us know ASAP. Mandy and I are free to hop on a call, too.

-----Original Message-----

From: Szabo, Aaron L. EOP/OMB [mailto:Aaron\_L\_Szabo@omb.eop.gov]  
Sent: Wednesday, August 2, 2017 12:57 PM  
To: Dravis, Samantha <dravis.samantha@epa.gov>  
Cc: Catanzaro, Michael J. EOP/WHO <Michael.J.Catanzaro@who.eop.gov>; Campau, Anthony P. EOP/OMB <Anthony.P.Campau@omb.eop.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Mancini, Dominic J. EOP/OMB <Dominic\_J.\_Mancini@omb.eop.gov>; Laity, Jim A. EOP/OMB <James\_A.\_Laity@omb.eop.gov>  
Subject: Re:

Samantha,

+ Anthony, Dom and Jim

I am free after 3pm today.

Sent from my iPhone

> On Aug 2, 2017, at 12:40 PM, Dravis, Samantha <dravis.samantha@epa.gov> wrote:  
>  
> Hey guys, I'm on the road today but we wanted to share this draft with you and get thoughts today if possible. Is there a good time to connect?  
>  
> <Notice-withdraw extension of O3D deadline 7-27-17\_MMG edits\_CLEAN.docx>

>  
>  
>  
> Sent from my iPhone



**To:** Dravis, Samantha[dravis.samantha@epa.gov]  
**Cc:** Bolen, Brittany[bolen.brittany@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]  
**From:** Gunasekara, Mandy  
**Sent:** Wed 8/2/2017 3:03:25 PM  
**Subject:** RE: Ozone Delay  
Notice-withdraw extension of O3D deadline 7-27-17 MMG edits CLEAN.docx

Clean version attached. I made additional edit per Brittany's feedback.

**From:** Dravis, Samantha  
**Sent:** Wednesday, August 2, 2017 10:21 AM  
**To:** Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>  
**Cc:** Bolen, Brittany <bolen.brittany@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>  
**Subject:** Re: Ozone Delay

Do you want to recirculate a clean version Mandy?

Sent from my iPhone

On Aug 2, 2017, at 9:53 AM, Gunasekara, Mandy <[Gunasekara.Mandy@epa.gov](mailto:Gunasekara.Mandy@epa.gov)> wrote:

Attached is the ozone delay notice with my edits. Please review. We need to get this out today. Also, please forward to Mike, Anthony/Jon or whoever else in the WH/OMB wants to review. Let them know that we will finalize this today.

**Mandy M. Gunasekara**

Senior Policy Advisor for Office of Air and Radiation

Office of the Administrator

US Environmental Protection Agency

<Notice-withdraw extension of O3D deadline 7-27-17 \_MMG edits.docx>



**To:** Dravis, Samantha[dravis.samantha@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]  
**Cc:** Schwab, Justin[schwab.justin@epa.gov]  
**From:** Gunasekara, Mandy  
**Sent:** Wed 8/2/2017 1:53:11 PM  
**Subject:** Ozone Delay  
Notice-withdraw extension of O3D deadline 7-27-17 MMG edits.docx

Attached is the ozone delay notice with my edits. Please review. We need to get this out today. Also, please forward to Mike, Anthony/Jon or whoever else in the WH/OMB wants to review. Let them know that we will finalize this today.

**Mandy M. Gunasekara**

Senior Policy Advisor for Office of Air and Radiation

Office of the Administrator

US Environmental Protection Agency

**To:** Minoli, Kevin[Minoli.Kevin@epa.gov]  
**From:** Schwab, Justin  
**Sent:** Wed 8/2/2017 9:58:02 PM  
**Subject:** Fwd: Signed - Ozone Extension Withdrawal  
[Ozone Extension Withdrawal August 2 2017.pdf](#)  
[ATT00001.htm](#)

Sent from my iPhone

Begin forwarded message:

**From:** "Knapp, Kristien" <[Knapp.Kristien@epa.gov](mailto:Knapp.Kristien@epa.gov)>  
**To:** "Flynn, Mike" <[Flynn.Mike@epa.gov](mailto:Flynn.Mike@epa.gov)>, "Jackson, Ryan" <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>, "Bowman, Liz" <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)>, "Lyons, Troy" <[lyons.troy@epa.gov](mailto:lyons.troy@epa.gov)>, "Dravis, Samantha" <[dravis.samantha@epa.gov](mailto:dravis.samantha@epa.gov)>, "Graham, Amy" <[graham.amy@epa.gov](mailto:graham.amy@epa.gov)>, "Bennett, Tate" <[Bennett.Tate@epa.gov](mailto:Bennett.Tate@epa.gov)>, "Dunham, Sarah" <[Dunham.Sarah@epa.gov](mailto:Dunham.Sarah@epa.gov)>, "Gunasekara, Mandy" <[Gunasekara.Mandy@epa.gov](mailto:Gunasekara.Mandy@epa.gov)>, "Schwab, Justin" <[schwab.justin@epa.gov](mailto:schwab.justin@epa.gov)>, "Bolen, Brittany" <[bolen.brittany@epa.gov](mailto:bolen.brittany@epa.gov)>, "Reeder, John" <[Reeder.John@epa.gov](mailto:Reeder.John@epa.gov)>, "Brown, Byron" <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>  
**Cc:** "Grantham, Nancy" <[Grantham.Nancy@epa.gov](mailto:Grantham.Nancy@epa.gov)>, "Richardson, RobinH" <[Richardson.RobinH@epa.gov](mailto:Richardson.RobinH@epa.gov)>, "Hull, George" <[Hull.George@epa.gov](mailto:Hull.George@epa.gov)>, "Lewis, Josh" <[Lewis.Josh@epa.gov](mailto:Lewis.Josh@epa.gov)>, "Burden, Susan" <[Burden.Susan@epa.gov](mailto:Burden.Susan@epa.gov)>, "Owens, Nicole" <[Owens.Nicole@epa.gov](mailto:Owens.Nicole@epa.gov)>, "Rees, Sarah" <[rees.sarah@epa.gov](mailto:rees.sarah@epa.gov)>, "Smith, Kristi" <[Smith.Kristi@epa.gov](mailto:Smith.Kristi@epa.gov)>, "Bianco, Karen" <[Bianco.Karen@epa.gov](mailto:Bianco.Karen@epa.gov)>, "Nickerson, William" <[Nickerson.William@epa.gov](mailto:Nickerson.William@epa.gov)>, "Curry, Bridgid" <[Curry.Bridgid@epa.gov](mailto:Curry.Bridgid@epa.gov)>  
**Subject:** Signed - Ozone Extension Withdrawal

A Federal Register notice announcing a withdrawal of the 1-year extension of the deadline for promulgating initial area designations for the ozone national ambient air quality standards was signed today. A copy of the signed notice is attached. Please let me know if you have any questions.

Thanks,

Kristien

Kristien Knapp

Special Assistant (OAR, OITA, OGC, OP)

Office of the Administrator

(202) 564-3277

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR PART 81**

**[EPA-HQ-OAR-2017-0223; FRL- ]**

**Withdrawal of Extension of Deadline for Promulgating Designations for the 2015 Ozone National Ambient Air Quality Standards**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Withdrawal of extension of deadline for promulgating designations.

**SUMMARY:** The Environmental Protection Agency (EPA) is announcing that it is withdrawing the 1-year extension of the deadline for promulgating initial area designations for the ozone national ambient air quality standards (NAAQS) that were promulgated in October 2015. Thus, unless and until the Administrator takes additional final action, the 2-year deadline for promulgating designations provided in the Clean Air Act (CAA) applies.

**DATES:** The deadline for the EPA to promulgate initial designations for the 2015 ozone NAAQS is October 1, 2017.

**FOR FURTHER INFORMATION CONTACT:** For questions regarding this action, contact Carla Oldham, Air Quality Planning Division, Office of Air Quality Planning and Standards, Mail Code C539-04, Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-3347; email address: [oldham.carla@epa.gov](mailto:oldham.carla@epa.gov)

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this action apply to me?*

Entities potentially affected by this action include state, local and tribal governments that would participate in the initial area designation process for the 2015 ozone standards.

*B. Where can I get a copy of this document and other related information?*

The EPA has established a docket for designations for the 2015 ozone NAAQS under Docket ID No. EPA-HQ-OAR-2017-0223. All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, *e.g.*, confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue, NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the EPA Docket Center is (202) 566-1742.

An electronic copy of this notice is also available at <http://www.epa.gov/ozone-designations> along with other information related to designations for the 2015 ozone NAAQS.

## **II. Designations Requirements**

On October 1, 2015, the EPA signed a notice of final rulemaking that revised the 8-hour primary and secondary ozone NAAQS (80 FR 65292; October 26, 2015). Both standards were lowered from 0.075 parts per million (ppm) to a level of 0.070 ppm.

After the EPA establishes or revises a NAAQS pursuant to CAA section 109, the CAA directs the EPA and the states to begin taking steps to ensure that those NAAQS are met. The first step is to identify areas of the country that meet or do not meet that NAAQS. This step is known as the initial area designations. Section 107(d)(1)(A) of the CAA provides that, “By such date as the Administrator may reasonably require, but not later than 1 year after promulgation of

a new or revised national ambient air quality standard for any pollutant under section [109], the Governor of each State shall \* \* \* submit to the Administrator a list of all areas (or portions thereof) in the State” that designates those areas as nonattainment, attainment, or unclassifiable.

The CAA further provides, “Upon promulgation or revision of a national ambient air quality standard, the Administrator shall promulgate the designations of all areas (or portions thereof) \* \* \* as expeditiously as practicable, but in no case later than 2 years from the date of promulgation of the new or revised national ambient air quality standard. Such period may be extended for up to one year in the event the Administrator has insufficient information to promulgate the designations.” 42 U.S.C. § 7407(d)(1)(B)(i).

In the EPA guidance, “Area Designations for the 2015 Ozone National Ambient Air Quality Standards,” the EPA indicated it expected to complete the initial area designations by October 1, 2017, consistent with the statutory requirement that the EPA designate areas no later than 2 years following promulgation of a revised NAAQS.<sup>1</sup>

### **III. Withdrawal of Extension of Deadline for Promulgating Designations for the 2015 Ozone NAAQS**

In letters sent to states on June 6, 2017, and in a **Federal Register** notice published on June 28, 2017 (82 FR 29246), the EPA Administrator Scott Pruitt announced that he was using his authority under section 107(d)(1)(B)(i) of the CAA to extend by 1 year, to October 1, 2018, the deadline for promulgating initial area designations for the 2015 ozone NAAQS. At that time (i.e., in early June), it was not clear that the agency would be in the position to complete designations for all areas for the 2015 ozone NAAQS in accordance with the 2-year statutory

---

<sup>1</sup> Memorandum from Janet G. McCabe, Acting Assistant Administrator, to Regional Administrators, Regions 1-10. February 25, 2016.



deadline of October 1, 2017. For a variety of other NAAQS in the past, previous EPA Administrators have used the authority under section 107(d)(1)(B)(i) to take additional time to complete designations.<sup>2</sup> The Administrator decided to similarly invoke the extension with regard to designations for the 2015 ozone NAAQS.

The EPA has continued to discuss and work with states concerning designations, and now understands that the information gaps that formed the basis of the extension may not be as expansive as we previously believed. The EPA now intends to reassess whether there are areas with underlying technical issues, whether there are state designation recommendations that the EPA intends to modify, and whether for any area there is insufficient information to promulgate the designation. The EPA believes this reevaluation will help ensure that more Americans are living and working in areas that meet national air quality standards. The agency believes that there may be areas of the United States for which designations could be promulgated in the next few months. Therefore, the EPA is withdrawing its prior announced 1-year extension of the deadline for promulgating initial area designations for the 2015 ozone NAAQS, and the 2-year deadline for promulgating designations provided in section 107(d)(1)(B) of the CAA applies. The Administrator may still determine that an extension of time to complete designations is necessary, but is not making such a determination at this time.

---

<sup>2</sup> For the 2008 ozone NAAQS, *see* 75 FR 2936 (January 19, 2010); for the 2008 lead NAAQS, *see* 75 FR 71033 (November 22, 2010); for the 2010 sulfur dioxide NAAQS, *see* 77 FR 46295 (August 3, 2012); and for the 2012 fine particulate matter NAAQS, *see* 80 FR 2206 (January 15, 2015).

**Page 5 of 5 – Withdrawal of Extension of Deadline for Promulgating Designations for the 2015 Ozone National Ambient Air Quality Standards**

**LIST OF SUBJECTS IN 40 CFR PART 81**

Environmental protection, Air pollution control, National parks, Wilderness areas.

**AUG 02 2017**

\_\_\_\_\_  
Dated:

A handwritten signature in black ink, appearing to read "E. Scott Pruitt", is written over a horizontal line.

E. Scott Pruitt,  
Administrator.

**To:** Minoli, Kevin[Minoli.Kevin@epa.gov]  
**From:** Schwab, Justin  
**Sent:** Wed 8/2/2017 7:24:34 PM  
**Subject:** Fwd: final edits to the withdrawal FR  
[Notice-withdraw extension of O3D deadline 8-2-17 rev.docx](#)  
[ATT00001.htm](#)

Sent from my iPhone

Begin forwarded message:

**From:** "Tierney, Jan" <[tierney.jan@epa.gov](mailto:tierney.jan@epa.gov)>  
**Date:** August 2, 2017 at 2:28:41 PM EDT  
**To:** "Schwab, Justin" <[schwab.justin@epa.gov](mailto:schwab.justin@epa.gov)>, "Bolen, Brittany" <[bolen.brittany@epa.gov](mailto:bolen.brittany@epa.gov)>, "Gunasekara, Mandy" <[Gunasekara.Mandy@epa.gov](mailto:Gunasekara.Mandy@epa.gov)>  
**Cc:** "Smith, Kristi" <[Smith.Kristi@epa.gov](mailto:Smith.Kristi@epa.gov)>, "Bianco, Karen" <[Bianco.Karen@epa.gov](mailto:Bianco.Karen@epa.gov)>, "Mathias, Scott" <[Mathias.Scott@epa.gov](mailto:Mathias.Scott@epa.gov)>  
**Subject:** final edits to the withdrawal FR

Justin, Brittany, Mandy -

The attached FR notice, in clean form, incorporates edits from OGC and OAQPS, including reference to Administrators Jackson and McCarthy as requested. It also includes citations for prior extension actions which had not been included in the earlier draft that was reviewed. Once we receive approval from you regarding the version for signature, OAQPS will send a new set of final documents, including the action memo and comm strat to OAR for processing. Thanks.

Jan Tierney

**To:** Minoli, Kevin[Minoli.Kevin@epa.gov]  
**From:** Schwab, Justin  
**Sent:** Wed 8/2/2017 5:08:52 PM  
**Subject:** Fwd: Notice-withdraw extension of O3D deadline 7-27-17 \_MMG edits\_CLEAN.docx  
[Notice-withdraw extension of O3D deadline 7-27-17 \\_MMG edits\\_CLEAN.docx](#)  
[ATT00001.htm](#)

FYI - Karen Bianco is processing

Sent from my iPhone

Begin forwarded message:

**From:** [schwab.justin@epa.gov](mailto:schwab.justin@epa.gov)  
**Date:** August 2, 2017 at 12:22:27 PM EDT  
**To:** [Bianco.Karen@epa.gov](mailto:Bianco.Karen@epa.gov)  
**Subject:** Notice-withdraw extension of O3D deadline 7-27-17 \_MMG  
edits\_CLEAN.docx

**From:** Smith, Kristi  
**Location:** 4045; conf. line 866-299-3188; Code 202-564-3068#  
**Importance:** Normal  
**Subject:** Follow-up ozone extension discussion with Kevin Minoli  
**Start Date/Time:** Fri 7/14/2017 7:30:00 PM  
**End Date/Time:** Fri 7/14/2017 8:30:00 PM  
[Designations delay Briefing Sheet 7.13.17.docx](#)  
[Recent Designation Extensions.docx](#)  
[Designations Process Generally.docx](#)  
[Ozone Extension Stay Response – Strawman schedule.docx](#)

## Designation Process Generally

- Under CAA § 107(d), designations are established through cooperative process with the states.
  - For ozone, EPA has established the parameters of that process – including the information necessary to designate areas – in:
    - 40 CFR Part 50, Appendix U (promulgated with the 2015 ozone NAAQS): addressing monitoring data, and
    - EPA’s 2015 ozone designation guidance (issued Feb. 2016): addressing the analysis to determine nearby areas contributing to nonattainment.
- Not later than 1 year after NAAQS are promulgated, States provide designation recommendations.
  - States recommend both (1) designation status and (2) boundaries of the areas.
- EPA evaluates the state information.
  - If EPA intends to promulgate a designation different from a state’s recommendation (either status or boundaries), then the CAA requires EPA to:
    - notify the state at least 120 days prior to promulgating the final designation and
    - provide the state an opportunity to comment on the intended modification.
  - EPA usually fulfills this obligation through “120 day letters” to governors with accompanying Technical Support Documents (TSDs) for areas EPA intends to designate as nonattainment and an FR Notice.
    - Although required to send 120 day letters only to states with which we disagree with the recommendation and allow them to comment, we generally
      - send them to all states and
      - provide general public notice and comment (CAA § 107(d)(2)(B) provides that designation actions “shall not be subject to the [APA notice and comment] provisions, except nothing herein shall be construed as precluding such public notice and comment whenever possible”).
- Not later than 2 years after NAAQS are promulgated, EPA considers any information submitted by states and public comments and issues final designations.
  - The Administrator can extend the deadline by one year if there is “insufficient information to promulgate the designations” (CAA § 107(d)(1)(B)(i)).
  - At the time of final designations, EPA also issues final TSDs.
  - For ozone, at the time of final designations, areas are classified by operation of law based on a separate classification rule interpreting how the statutory classifications in CAA § 181(a)(1) will apply for the relevant NAAQS.
    - Classifications are marginal, moderate, serious, severe, and extreme, and are based on level of ozone pollution above the NAAQS with successively later attainment dates for each higher classification.
    - The classification rule needs to be issued no later than the date of the final designations.

## Ozone Extension Stay Response – Strawman schedule

July 14 – Briefing on procedural options moving forward

July 18 – Briefing on “insufficient information”

July 19 - Decision made on path forward

[4 days for staff-level drafting, seeking of additional information from management as needed, and review through mid-level management]

July 25 – To OAR IO/OGC IO for review (1 day, including incorporating comments into clean draft)

July 26 – To OP for review (1 day)

July 27 – To OEX for review (1 day)

### **July 28 – Signature**

July 31 – DOJ response to stay motion due\*

\*assumes a 7-day extension from our current response date (July 24).

## RECENT HISTORY OF 1-YEAR DESIGNATIONS EXTENSIONS

- **2012 PM<sub>2.5</sub> NAAQS:** The December 2014 designations deadline was extended until December 2015 for several areas of the country pending a review of state monitoring network data quality procedures. *See* 80 FR 2206 (January 15, 2015) and 80 FR 18535 (April 7, 2015). Specifically, PM<sub>2.5</sub> monitoring data for 2011 and 2012 from some areas in Georgia, and throughout the entire states of Tennessee and Florida were incomplete due to quality assurance failures. Complete data became available in the remaining areas of Georgia and most of Florida by the end of calendar year 2015, and in August 2016 the EPA issued designations for these areas. *See* 81 FR 61136 (September 6, 2016 – areas in GA and FL). Although past the statutory extension deadline, at the end of calendar year 2016 complete data became available for the state of Tennessee, and the EPA is currently preparing to issue the designations for this state in 2017. Once the Tennessee designations are finalized, there will remain only 5 counties in Florida that are undesignated for the 2012 PM<sub>2.5</sub> NAAQS.
- **2010 SO<sub>2</sub> NAAQS:** The June 2012 designations deadline was extended until June 2013 for the entire country by EPA due to “significant uncertainty,” citing the need to resolve the approach for SO<sub>2</sub> implementation, including a comprehensive SO<sub>2</sub> air quality assessment strategy. *See* 78 FR 47191 (August 5, 2013). In August 2013, the Administrator issued nonattainment designations for 29 areas where the existing SO<sub>2</sub> monitoring network indicated violations of the revised SO<sub>2</sub> NAAQS, and further deferred designations for the remainder of the country pending the EPA’s effort to finalize a comprehensive SO<sub>2</sub> air quality assessment strategy. Under the terms of a settlement to a deadline suit brought by environmental groups, the Administrator issued designations for 65 additional areas in 2016. *See* 81 FR 45039 (July 12, 2016) and 81 FR 89870 (December 13, 2016). Under the terms of the settlement, the Administrator is required to issue designations for most of the remainder of the U.S. by the end of 2017, and the remaining areas by the end of 2020.
- **2008 Lead NAAQS:** The October 2010, designations deadline was extended until October 2011, for most of the country to enable states to finish establishing a new network of lead monitors required for sources of lead emissions greater than 1 ton per year. *See* 75 FR 71033 (November 22, 2010). In October 2010, nonattainment designations were issued for 16 areas where the existing lead monitoring network indicated violations of the 2008 lead NAAQS. Designations were completed for all remaining areas of the U.S. in October 2011.<sup>1</sup> *See* 76 FR 72097 (November 22, 2011).
- **2008 Ozone NAAQS:** The March 2010 designations deadline was extended until March 2011 for the entire country because EPA announced in September 2009 an intention to reconsider the 0.075 ppm standard that had been established in 2008. *See* 75 FR 2936 (January 19, 2010). In that action, EPA stated that it had insufficient information to promulgate the designations because of the significant uncertainty that the reconsideration proposal created regarding the continued applicability of the 2008 ozone NAAQS. In September 2011, EPA announced that the reconsideration would not be completed, and implementation of the 2008 NAAQS would move forward. A deadline suit from public health and environmental groups followed, and litigants agreed to settle on a May 31, 2012, deadline. The Administrator issued ozone designations for the entire country in the spring of 2012. *See* 77 FR 30087 (May 21, 2012) and 77 FR 34221 (June 11, 2012). At the same time EPA issued the designations, EPA issued the rule establishing the method of classification for areas for the 2008 ozone NAAQS. *See* 77 FR 30160 (May 21, 2012).

<sup>1</sup> The form of the lead standard requires as few as 3 months of monitoring data in order to determine an area is out of compliance. States had established new monitoring networks starting in 2010 for sources of lead required by EPA regulations to be monitored. This allowed additional monitoring data to be gathered for calendar year 2010 and the beginning of 2011 to inform designations for the remainder of the country.



**To:** Smith, Kristi[Smith.Kristi@epa.gov]  
**From:** Mathias, Scott  
**Sent:** Fri 7/28/2017 3:56:49 AM  
**Subject:** Fwd: Heads-up on FRN on Ozone designations deferral withdrawal  
[Key Messages on Notice-withdraw extension of O3D deadline 7-27-17 PM V 2.docx](#)  
[ATT00001.htm](#)  
[Notice-withdraw extension of O3D deadline 7-27-17 PM CLEAN draft.docx](#)  
[ATT00002.htm](#)

Begin forwarded message:

**From:** "Wood, Anna" <Wood.Anna@epa.gov>  
**Date:** July 27, 2017 at 6:30:32 PM EDT  
**To:** "Smith, Suzanne" <Smith.Suzanne@epa.gov>, "Bianco, Karen" <Bianco.Karen@epa.gov>, "Tierney, Jan" <tierney.jan@epa.gov>  
**Cc:** "Mathias, Scott" <Mathias.Scott@epa.gov>, "Oldham, Carla" <Oldham.Carla@epa.gov>, "Jones, Rhea" <Jones.Rhea@epa.gov>  
**Subject:** FW: Heads-up on FRN on Ozone designations deferral withdrawal

FYI—thanks again for everyone’s efforts on this—much appreciated!

**From:** Wood, Anna  
**Sent:** Thursday, July 27, 2017 6:26 PM  
**To:** Koerber, Mike <Koerber.Mike@epa.gov>; South, Peter <South.Peter@epa.gov>  
**Cc:** Page, Steve <Page.Steve@epa.gov>; Michael Ling <Ling.Michael@epa.gov>; Oldham, Carla <Oldham.Carla@epa.gov>; Cortelyou-Lee, Jan <Cortelyou-Lee.Jan@epa.gov>; Mathias, Scott <Mathias.Scott@epa.gov>; Jones, Rhea <jones.rhea@epa.gov>  
**Subject:** FW: Heads-up on FRN on Ozone designations deferral withdrawal

Per my earlier email, attached are the two documents for your review and transmittal to Sarah Dunham. These documents were coordinated and reviewed by OGC and reflect OGC input and edits. Please note that we intentionally did not include the points in the key messages piece re the Agency’s plan going forward in the FRN. We think it is preferable to keep the FRN cleaner and more succinct and that this information is better suited for communications materials. Please let me know if you have any questions, thanks Anna

**From:** Wood, Anna  
**Sent:** Thursday, July 27, 2017 5:46 PM  
**To:** Koerber, Mike <[Koerber.Mike@epa.gov](mailto:Koerber.Mike@epa.gov)>; South, Peter <[South.Peter@epa.gov](mailto:South.Peter@epa.gov)>  
**Cc:** Page, Steve <[Page.Steve@epa.gov](mailto:Page.Steve@epa.gov)>; 'Michael Ling' <[Ling.Michael@epa.gov](mailto:Ling.Michael@epa.gov)>; Cortelyou-Lee, Jan <[Cortelyou-Lee.Jan@epa.gov](mailto:Cortelyou-Lee.Jan@epa.gov)>  
**Subject:** RE: Heads-up on FRN on Ozone designations deferral withdrawal

Adding Jan Cortelyou

**From:** Wood, Anna  
**Sent:** Thursday, July 27, 2017 5:40 PM  
**To:** Koerber, Mike <[Koerber.Mike@epa.gov](mailto:Koerber.Mike@epa.gov)>; South, Peter <[South.Peter@epa.gov](mailto:South.Peter@epa.gov)>  
**Cc:** Page, Steve <[Page.Steve@epa.gov](mailto:Page.Steve@epa.gov)>; Michael Ling <[Ling.Michael@epa.gov](mailto:Ling.Michael@epa.gov)>  
**Subject:** Heads-up on FRN on Ozone designations deferral withdrawal

Just a heads-up that tomorrow morning we will be sending to you for review and further transmittal to Sarah the referenced FRN and a key messages piece. Mike you have looked at these already and what we will be sending reflects edits/suggestions from OGC which Scott, Carla and I have reviewed. OGC is asking that these be transmitted to Sarah for her to provide to Mandy at some point tomorrow. Scott and I are out of the office tomorrow but are available on email. Carla is in the office in the morning and Michael Ling is acting DD for me. We have alerted Michael on this and he is available to assist you as well should anything come up. Please let me know if you have any questions. Thanks

Anna Marie Wood

Director, Air Quality Policy Division

OAQPS, U.S. EPA

109 T.W. Alexander Drive

Research Triangle Park, NC 27711

(919) 541-3604

**To:** Smith, Kristi[Smith.Kristi@epa.gov]  
**Cc:** Knapp, Kristien[Knapp.Kristien@epa.gov]  
**From:** Lewis, Josh  
**Sent:** Wed 8/2/2017 11:22:36 PM  
**Subject:** Re: Signed - Ozone Extension Withdrawal

I know there's a press release and messaging in the works but I haven't seen it. Will share when I do

On Aug 2, 2017, at 6:11 PM, Smith, Kristi <[Smith.Kristi@epa.gov](mailto:Smith.Kristi@epa.gov)> wrote:

Kristien & Josh –

Thanks for getting this over the finish line and getting a copy to us. We're sending to DOJ now.

Also, do you know if/when we'll have this up on the web and/or if there are press talking points to share? Reg. 6 is at a "superconference" with state & industry reps today and tomorrow, and it's possible they might get questions about this, so I'd like to share with them if possible.

- Kristi

Kristi M. Smith \* Assistant General Counsel for the NAAQS Implementation Group \* Air & Radiation Law Office \* US EPA, Office of General Counsel \* [smith.kristi@epa.gov](mailto:smith.kristi@epa.gov) \* (202) 564-3068 \*

CONFIDENTIAL communication for internal deliberations only; may contain deliberative, attorney-client, attorney work product, or otherwise privileged material; do not distribute outside EPA or DOJ.

**From:** Knapp, Kristien  
**Sent:** Wednesday, August 02, 2017 5:57 PM  
**To:** Flynn, Mike <[Flynn.Mike@epa.gov](mailto:Flynn.Mike@epa.gov)>; Jackson, Ryan <[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>; Bowman, Liz <[Bowman.Liz@epa.gov](mailto: Bowman.Liz@epa.gov)>; Lyons, Troy <[lyons.troy@epa.gov](mailto:lyons.troy@epa.gov)>; Dravis, Samantha <[dravis.samantha@epa.gov](mailto:dravis.samantha@epa.gov)>; Graham, Amy <[graham.amy@epa.gov](mailto:graham.amy@epa.gov)>; Bennett,

Tate <[Bennett.Tate@epa.gov](mailto:Bennett.Tate@epa.gov)>; Dunham, Sarah <[Dunham.Sarah@epa.gov](mailto:Dunham.Sarah@epa.gov)>; Gunasekara, Mandy <[Gunasekara.Mandy@epa.gov](mailto:Gunasekara.Mandy@epa.gov)>; Schwab, Justin <[schwab.justin@epa.gov](mailto:schwab.justin@epa.gov)>; Bolen, Brittany <[bolen.brittany@epa.gov](mailto:bolen.brittany@epa.gov)>; Reeder, John <[Reeder.John@epa.gov](mailto:Reeder.John@epa.gov)>; Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>

**Cc:** Grantham, Nancy <[Grantham.Nancy@epa.gov](mailto:Grantham.Nancy@epa.gov)>; Richardson, RobinH <[Richardson.RobinH@epa.gov](mailto:Richardson.RobinH@epa.gov)>; Hull, George <[Hull.George@epa.gov](mailto:Hull.George@epa.gov)>; Lewis, Josh <[Lewis.Josh@epa.gov](mailto:Lewis.Josh@epa.gov)>; Burden, Susan <[Burden.Susan@epa.gov](mailto:Burden.Susan@epa.gov)>; Owens, Nicole <[Owens.Nicole@epa.gov](mailto:Owens.Nicole@epa.gov)>; Rees, Sarah <[rees.sarah@epa.gov](mailto:rees.sarah@epa.gov)>; Smith, Kristi <[Smith.Kristi@epa.gov](mailto:Smith.Kristi@epa.gov)>; Bianco, Karen <[Bianco.Karen@epa.gov](mailto:Bianco.Karen@epa.gov)>; Nickerson, William <[Nickerson.William@epa.gov](mailto:Nickerson.William@epa.gov)>; Curry, Bridgid <[Curry.Bridgid@epa.gov](mailto:Curry.Bridgid@epa.gov)>

**Subject:** Signed - Ozone Extension Withdrawal

A Federal Register notice announcing a withdrawal of the 1-year extension of the deadline for promulgating initial area designations for the ozone national ambient air quality standards was signed today. A copy of the signed notice is attached. Please let me know if you have any questions.

Thanks,

Kristien

Kristien Knapp

Special Assistant (OAR, OITA, OGC, OP)

Office of the Administrator

(202) 564-3277

**To:** Koerber, Mike[Koerber.Mike@epa.gov]; Smith, Kristi[Smith.Kristi@epa.gov]; Oldham, Carla[Oldham.Carla@epa.gov]; Jones, Rhea[Jones.Rhea@epa.gov]; Wood, Anna[Wood.Anna@epa.gov]; Cortelyou-Lee, Jan[Cortelyou-Lee.Jan@epa.gov]; Tierney, Jan[tierney.jan@epa.gov]  
**Cc:** Long, Pam[Long.Pam@epa.gov]  
**From:** Mathias, Scott  
**Sent:** Thur 7/27/2017 4:29:30 PM  
**Subject:** O3D extension withdrawal: draft FRN & Key Messages  
[Notice-withdraw extension of O3D deadline 7-27-17 OAQPS draft.docx](#)  
[Key Messages on Notice-withdraw extension of O3D deadline 7-27-17.docx](#)

All,

Attached is the latest draft of the FRN and a new document containing Key Messages that the administration may want to use regarding this action and the broader context of ozone NAAQS implementation.

After discussions this morning, OAQPS is recommending that any embellishments on the core elements of the withdrawal action be accomplished in communications regarding the action, rather than within the action itself. This Key Messages draft draws from the language in the 7/24/2017 draft of the “Report to Congress on Administrative Options to Enable States to Enter into Cooperative Agreements to Provide Regulatory Relief,” and ultimately care should be taken to ensure that these messages continue to be consistent as both documents move toward final.

Please review ASAP and let us know if there is anything we else we might add or say differently, and if you have ideas about where these key messages would go (e.g., communications Q&A, desk statement, fact sheet, press release, etc.).

**Scott Mathias | Associate Director, Air Quality Policy Division | U.S. EPA, RTP, NC 27711 | 919.541.5310**

**To:** Smith, Kristi[Smith.Kristi@epa.gov]  
**From:** Tierney, Jan  
**Sent:** Thur 7/13/2017 8:09:28 PM  
**Subject:** 2 pager  
Designations delay Briefing Sheet 7.13.17.docx

**To:** Scott Mathias[Mathias.Scott@epa.gov]  
**Cc:** Tierney, Jan[tierney.jan@epa.gov]; Bianco, Karen[Bianco.Karen@epa.gov]  
**From:** Smith, Kristi  
**Sent:** Wed 7/19/2017 2:39:20 PM  
**Subject:** ozone briefing  
O3D - Insufficient Info Briefing v5 7-18-2017 - OGC version.docx

Per our discussion, here's a revised paper that we've put together based on the prior drafts. As you'll see, it's just the main briefing document. We've moved the other info from the prior drafts to the appendix, but we'll hold off any edits to that until we hear from you.

Kristi M. Smith \* Assistant General Counsel for the NAAQS Implementation Group \* Air & Radiation Law Office \* US EPA, Office of General Counsel \* smith.kristi@epa.gov \* (202) 564-3068 \*

CONFIDENTIAL communication for internal deliberations only; may contain deliberative, attorney-client, attorney work product, or otherwise privileged material; do not distribute outside EPA or DOJ.

**To:** Stafford, Barbara[stafford.barbara@epa.gov]; Motley, Judy[motley.judy@epa.gov]  
**From:** Smith, Kristi  
**Sent:** Fri 7/14/2017 6:32:01 PM  
**Subject:** FW: Materials -- re: Follow-up ozone extension discussion with Kevin Minoli  
Designations delay Briefing Sheet 7.13.17.docx  
Recent Designation Extensions.docx  
Designations Process Generally.docx  
Ozone Extension Stay Response – Strawman schedule.docx

Barbara and Judy –

Can one of you please make 10 copies of each of the attached documents that Lorie & I can bring to our 3:30 meeting with Kevin and others?

Thank you,

Kristi

Kristi M. Smith \* Assistant General Counsel for the NAAQS Implementation Group \* Air & Radiation Law Office \* US EPA, Office of General Counsel \* smith.kristi@epa.gov \* (202) 564-3068 \*

CONFIDENTIAL communication for internal deliberations only; may contain deliberative, attorney-client, attorney work product, or otherwise privileged material; do not distribute outside EPA or DOJ.

**From:** Smith, Kristi  
**Sent:** Friday, July 14, 2017 2:26 PM  
**To:** Dunham, Sarah <Dunham.Sarah@epa.gov>; Wood, Anna <Wood.Anna@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Orlin, David <Orlin.David@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Bianco, Karen <Bianco.Karen@epa.gov>; Tierney, Jan <tierney.jan@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Williams, Melina <Williams.Melina@epa.gov>; Mathias, Scott <Mathias.Scott@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Page, Steve <Page.Steve@epa.gov>  
**Subject:** Materials -- re: Follow-up ozone extension discussion with Kevin Minoli

I updated the invite for the afternoon meeting with the briefing materials, and I'm also attaching them here.



There are 4 papers:

- 1) Main briefing paper on overall options for moving forward
- 2) Recent designation extensions (excerpt from a prior OAQPS briefing paper)
- 3) Overview of the designations process generally
- 4) Strawman proposal on timing of EPA action based on the deadline for the EPA response in the stay litigation

Kristi M. Smith \* Assistant General Counsel for the NAAQS Implementation Group \* Air & Radiation Law Office \* US EPA, Office of General Counsel \* [smith.kristi@epa.gov](mailto:smith.kristi@epa.gov) \* (202) 564-3068 \*

CONFIDENTIAL communication for internal deliberations only; may contain deliberative, attorney-client, attorney work product, or otherwise privileged material; do not distribute outside EPA or DOJ.

## Designation Process Generally

- Under CAA § 107(d), designations are established through cooperative process with the states.
  - For ozone, EPA has established the parameters of that process – including the information necessary to designate areas – in:
    - 40 CFR Part 50, Appendix U (promulgated with the 2015 ozone NAAQS): addressing monitoring data, and
    - EPA’s 2015 ozone designation guidance (issued Feb. 2016): addressing the analysis to determine nearby areas contributing to nonattainment.
- Not later than 1 year after NAAQS are promulgated, States provide designation recommendations.
  - States recommend both (1) designation status and (2) boundaries of the areas.
- EPA evaluates the state information.
  - If EPA intends to promulgate a designation different from a state’s recommendation (either status or boundaries), then the CAA requires EPA to:
    - notify the state at least 120 days prior to promulgating the final designation and
    - provide the state an opportunity to comment on the intended modification.
  - EPA usually fulfills this obligation through “120 day letters” to governors with accompanying Technical Support Documents (TSDs) for areas EPA intends to designate as nonattainment and an FR Notice.
    - Although required to send 120 day letters only to states with which we disagree with the recommendation and allow them to comment, we generally
      - send them to all states and
      - provide general public notice and comment (CAA § 107(d)(2)(B) provides that designation actions “shall not be subject to the [APA notice and comment] provisions, except nothing herein shall be construed as precluding such public notice and comment whenever possible”).
- Not later than 2 years after NAAQS are promulgated, EPA considers any information submitted by states and public comments and issues final designations.
  - The Administrator can extend the deadline by one year if there is “insufficient information to promulgate the designations” (CAA § 107(d)(1)(B)(i)).
  - At the time of final designations, EPA also issues final TSDs.
  - For ozone, at the time of final designations, areas are classified by operation of law based on a separate classification rule interpreting how the statutory classifications in CAA § 181(a)(1) will apply for the relevant NAAQS.
    - Classifications are marginal, moderate, serious, severe, and extreme, and are based on level of ozone pollution above the NAAQS with successively later attainment dates for each higher classification.
    - The classification rule needs to be issued no later than the date of the final designations.

## Ozone Extension Stay Response – Strawman schedule

July 14 – Briefing on procedural options moving forward

July 18 – Briefing on “insufficient information”

July 19 - Decision made on path forward

[4 days for staff-level drafting, seeking of additional information from management as needed, and review through mid-level management]

July 25 – To OAR IO/OGC IO for review (1 day, including incorporating comments into clean draft)

July 26 – To OP for review (1 day)

July 27 – To OEX for review (1 day)

### **July 28 – Signature**

July 31 – DOJ response to stay motion due\*

\*assumes a 7-day extension from our current response date (July 24).

## RECENT HISTORY OF 1-YEAR DESIGNATIONS EXTENSIONS

- **2012 PM<sub>2.5</sub> NAAQS:** The December 2014 designations deadline was extended until December 2015 for several areas of the country pending a review of state monitoring network data quality procedures. *See* 80 FR 2206 (January 15, 2015) and 80 FR 18535 (April 7, 2015). Specifically, PM<sub>2.5</sub> monitoring data for 2011 and 2012 from some areas in Georgia, and throughout the entire states of Tennessee and Florida were incomplete due to quality assurance failures. Complete data became available in the remaining areas of Georgia and most of Florida by the end of calendar year 2015, and in August 2016 the EPA issued designations for these areas. *See* 81 FR 61136 (September 6, 2016 – areas in GA and FL). Although past the statutory extension deadline, at the end of calendar year 2016 complete data became available for the state of Tennessee, and the EPA is currently preparing to issue the designations for this state in 2017. Once the Tennessee designations are finalized, there will remain only 5 counties in Florida that are undesignated for the 2012 PM<sub>2.5</sub> NAAQS.
- **2010 SO<sub>2</sub> NAAQS:** The June 2012 designations deadline was extended until June 2013 for the entire country by EPA due to “significant uncertainty,” citing the need to resolve the approach for SO<sub>2</sub> implementation, including a comprehensive SO<sub>2</sub> air quality assessment strategy. *See* 78 FR 47191 (August 5, 2013). In August 2013, the Administrator issued nonattainment designations for 29 areas where the existing SO<sub>2</sub> monitoring network indicated violations of the revised SO<sub>2</sub> NAAQS, and further deferred designations for the remainder of the country pending the EPA’s effort to finalize a comprehensive SO<sub>2</sub> air quality assessment strategy. Under the terms of a settlement to a deadline suit brought by environmental groups, the Administrator issued designations for 65 additional areas in 2016. *See* 81 FR 45039 (July 12, 2016) and 81 FR 89870 (December 13, 2016). Under the terms of the settlement, the Administrator is required to issue designations for most of the remainder of the U.S. by the end of 2017, and the remaining areas by the end of 2020.
- **2008 Lead NAAQS:** The October 2010, designations deadline was extended until October 2011, for most of the country to enable states to finish establishing a new network of lead monitors required for sources of lead emissions greater than 1 ton per year. *See* 75 FR 71033 (November 22, 2010). In October 2010, nonattainment designations were issued for 16 areas where the existing lead monitoring network indicated violations of the 2008 lead NAAQS. Designations were completed for all remaining areas of the U.S. in October 2011.<sup>1</sup> *See* 76 FR 72097 (November 22, 2011).
- **2008 Ozone NAAQS:** The March 2010 designations deadline was extended until March 2011 for the entire country because EPA announced in September 2009 an intention to reconsider the 0.075 ppm standard that had been established in 2008. *See* 75 FR 2936 (January 19, 2010). In that action, EPA stated that it had insufficient information to promulgate the designations because of the significant uncertainty that the reconsideration proposal created regarding the continued applicability of the 2008 ozone NAAQS. In September 2011, EPA announced that the reconsideration would not be completed, and implementation of the 2008 NAAQS would move forward. A deadline suit from public health and environmental groups followed, and litigants agreed to settle on a May 31, 2012, deadline. The Administrator issued ozone designations for the entire country in the spring of 2012. *See* 77 FR 30087 (May 21, 2012) and 77 FR 34221 (June 11, 2012). At the same time EPA issued the designations, EPA issued the rule establishing the method of classification for areas for the 2008 ozone NAAQS. *See* 77 FR 30160 (May 21, 2012).

<sup>1</sup> The form of the lead standard requires as few as 3 months of monitoring data in order to determine an area is out of compliance. States had established new monitoring networks starting in 2010 for sources of lead required by EPA regulations to be monitored. This allowed additional monitoring data to be gathered for calendar year 2010 and the beginning of 2011 to inform designations for the remainder of the country.

## RECENT HISTORY OF 1-YEAR DESIGNATIONS EXTENSIONS

- **2012 PM<sub>2.5</sub> NAAQS:** The December 2014 designations deadline was extended until December 2015 for several areas of the country pending a review of state monitoring network data quality procedures. *See* 80 FR 2206 (January 15, 2015) and 80 FR 18535 (April 7, 2015). Specifically, PM<sub>2.5</sub> monitoring data for 2011 and 2012 from some areas in Georgia, and throughout the entire states of Tennessee and Florida were incomplete due to quality assurance failures. Complete data became available in the remaining areas of Georgia and most of Florida by the end of calendar year 2015, and in August 2016 the EPA issued designations for these areas. *See* 81 FR 61136 (September 6, 2016 – areas in GA and FL). Although past the statutory extension deadline, at the end of calendar year 2016 complete data became available for the state of Tennessee, and the EPA is currently preparing to issue the designations for this state in 2017. Once the Tennessee designations are finalized, there will remain only 5 counties in Florida that are undesignated for the 2012 PM<sub>2.5</sub> NAAQS.
- **2010 SO<sub>2</sub> NAAQS:** The June 2012 designations deadline was extended until June 2013 for the entire country by EPA due to “significant uncertainty,” citing the need to resolve the approach for SO<sub>2</sub> implementation, including a comprehensive SO<sub>2</sub> air quality assessment strategy. *See* 78 FR 47191 (August 5, 2013). In August 2013, the Administrator issued nonattainment designations for 29 areas where the existing SO<sub>2</sub> monitoring network indicated violations of the revised SO<sub>2</sub> NAAQS, and further deferred designations for the remainder of the country pending the EPA’s effort to finalize a comprehensive SO<sub>2</sub> air quality assessment strategy. Under the terms of a settlement to a deadline suit brought by environmental groups, the Administrator issued designations for 65 additional areas in 2016. *See* 81 FR 45039 (July 12, 2016) and 81 FR 89870 (December 13, 2016). Under the terms of the settlement, the Administrator is required to issue designations for most of the remainder of the U.S. by the end of 2017, and the remaining areas by the end of 2020.
- **2008 Lead NAAQS:** The October 2010, designations deadline was extended until October 2011, for most of the country to enable states to finish establishing a new network of lead monitors required for sources of lead emissions greater than 1 ton per year. *See* 75 FR 71033 (November 22, 2010). In October 2010, nonattainment designations were issued for 16 areas where the existing lead monitoring network indicated violations of the 2008 lead NAAQS. Designations were completed for all remaining areas of the U.S. in October 2011.<sup>1</sup> *See* 76 FR 72097 (November 22, 2011).
- **2008 Ozone NAAQS:** The March 2010 designations deadline was extended until March 2011 for the entire country because EPA announced in September 2009 an intention to reconsider the 0.075 ppm standard that had been established in 2008. *See* 75 FR 2936 (January 19, 2010). In that action, EPA stated that it had insufficient information to promulgate the designations because of the significant uncertainty that the reconsideration proposal created regarding the continued applicability of the 2008 ozone NAAQS. In September 2011, EPA announced that the reconsideration would not be completed, and implementation of the 2008 NAAQS would move forward. A deadline suit from public health and environmental groups followed, and litigants agreed to settle on a May 31, 2012, deadline. The Administrator issued ozone designations for the entire country in the spring of 2012. *See* 77 FR 30087 (May 21, 2012) and 77 FR 34221 (June 11, 2012). At the same time EPA issued the designations, EPA issued the rule establishing the method of classification for areas for the 2008 ozone NAAQS. *See* 77 FR 30160 (May 21, 2012).

<sup>1</sup> The form of the lead standard requires as few as 3 months of monitoring data in order to determine an area is out of compliance. States had established new monitoring networks starting in 2010 for sources of lead required by EPA regulations to be monitored. This allowed additional monitoring data to be gathered for calendar year 2010 and the beginning of 2011 to inform designations for the remainder of the country.

## RECENT HISTORY OF 1-YEAR DESIGNATIONS EXTENSIONS

- **2012 PM<sub>2.5</sub> NAAQS:** The December 2014 designations deadline was extended until December 2015 for several areas of the country pending a review of state monitoring network data quality procedures. *See* 80 FR 2206 (January 15, 2015) and 80 FR 18535 (April 7, 2015). Specifically, PM<sub>2.5</sub> monitoring data for 2011 and 2012 from some areas in Georgia, and throughout the entire states of Tennessee and Florida were incomplete due to quality assurance failures. Complete data became available in the remaining areas of Georgia and most of Florida by the end of calendar year 2015, and in August 2016 the EPA issued designations for these areas. *See* 81 FR 61136 (September 6, 2016 – areas in GA and FL). Although past the statutory extension deadline, at the end of calendar year 2016 complete data became available for the state of Tennessee, and the EPA is currently preparing to issue the designations for this state in 2017. Once the Tennessee designations are finalized, there will remain only 5 counties in Florida that are undesignated for the 2012 PM<sub>2.5</sub> NAAQS.
- **2010 SO<sub>2</sub> NAAQS:** The June 2012 designations deadline was extended until June 2013 for the entire country by EPA due to “significant uncertainty,” citing the need to resolve the approach for SO<sub>2</sub> implementation, including a comprehensive SO<sub>2</sub> air quality assessment strategy. *See* 78 FR 47191 (August 5, 2013). In August 2013, the Administrator issued nonattainment designations for 29 areas where the existing SO<sub>2</sub> monitoring network indicated violations of the revised SO<sub>2</sub> NAAQS, and further deferred designations for the remainder of the country pending the EPA’s effort to finalize a comprehensive SO<sub>2</sub> air quality assessment strategy. Under the terms of a settlement to a deadline suit brought by environmental groups, the Administrator issued designations for 65 additional areas in 2016. *See* 81 FR 45039 (July 12, 2016) and 81 FR 89870 (December 13, 2016). Under the terms of the settlement, the Administrator is required to issue designations for most of the remainder of the U.S. by the end of 2017, and the remaining areas by the end of 2020.
- **2008 Lead NAAQS:** The October 2010, designations deadline was extended until October 2011, for most of the country to enable states to finish establishing a new network of lead monitors required for sources of lead emissions greater than 1 ton per year. *See* 75 FR 71033 (November 22, 2010). In October 2010, nonattainment designations were issued for 16 areas where the existing lead monitoring network indicated violations of the 2008 lead NAAQS. Designations were completed for all remaining areas of the U.S. in October 2011.<sup>1</sup> *See* 76 FR 72097 (November 22, 2011).
- **2008 Ozone NAAQS:** The March 2010 designations deadline was extended until March 2011 for the entire country because EPA announced in September 2009 an intention to reconsider the 0.075 ppm standard that had been established in 2008. *See* 75 FR 2936 (January 19, 2010). In that action, EPA stated that it had insufficient information to promulgate the designations because of the significant uncertainty that the reconsideration proposal created regarding the continued applicability of the 2008 ozone NAAQS. In September 2011, EPA announced that the reconsideration would not be completed, and implementation of the 2008 NAAQS would move forward. A deadline suit from public health and environmental groups followed, and litigants agreed to settle on a May 31, 2012, deadline. The Administrator issued ozone designations for the entire country in the spring of 2012. *See* 77 FR 30087 (May 21, 2012) and 77 FR 34221 (June 11, 2012). At the same time EPA issued the designations, EPA issued the rule establishing the method of classification for areas for the 2008 ozone NAAQS. *See* 77 FR 30160 (May 21, 2012).

<sup>1</sup> The form of the lead standard requires as few as 3 months of monitoring data in order to determine an area is out of compliance. States had established new monitoring networks starting in 2010 for sources of lead required by EPA regulations to be monitored. This allowed additional monitoring data to be gathered for calendar year 2010 and the beginning of 2011 to inform designations for the remainder of the country.

## RECENT HISTORY OF 1-YEAR DESIGNATIONS EXTENSIONS

- **2012 PM<sub>2.5</sub> NAAQS:** The December 2014 designations deadline was extended until December 2015 for several areas of the country pending a review of state monitoring network data quality procedures. *See* 80 FR 2206 (January 15, 2015) and 80 FR 18535 (April 7, 2015). Specifically, PM<sub>2.5</sub> monitoring data for 2011 and 2012 from some areas in Georgia, and throughout the entire states of Tennessee and Florida were incomplete due to quality assurance failures. Complete data became available in the remaining areas of Georgia and most of Florida by the end of calendar year 2015, and in August 2016 the EPA issued designations for these areas. *See* 81 FR 61136 (September 6, 2016 – areas in GA and FL). Although past the statutory extension deadline, at the end of calendar year 2016 complete data became available for the state of Tennessee, and the EPA is currently preparing to issue the designations for this state in 2017. Once the Tennessee designations are finalized, there will remain only 5 counties in Florida that are undesignated for the 2012 PM<sub>2.5</sub> NAAQS.
- **2010 SO<sub>2</sub> NAAQS:** The June 2012 designations deadline was extended until June 2013 for the entire country by EPA due to “significant uncertainty,” citing the need to resolve the approach for SO<sub>2</sub> implementation, including a comprehensive SO<sub>2</sub> air quality assessment strategy. *See* 78 FR 47191 (August 5, 2013). In August 2013, the Administrator issued nonattainment designations for 29 areas where the existing SO<sub>2</sub> monitoring network indicated violations of the revised SO<sub>2</sub> NAAQS, and further deferred designations for the remainder of the country pending the EPA’s effort to finalize a comprehensive SO<sub>2</sub> air quality assessment strategy. Under the terms of a settlement to a deadline suit brought by environmental groups, the Administrator issued designations for 65 additional areas in 2016. *See* 81 FR 45039 (July 12, 2016) and 81 FR 89870 (December 13, 2016). Under the terms of the settlement, the Administrator is required to issue designations for most of the remainder of the U.S. by the end of 2017, and the remaining areas by the end of 2020.
- **2008 Lead NAAQS:** The October 2010, designations deadline was extended until October 2011, for most of the country to enable states to finish establishing a new network of lead monitors required for sources of lead emissions greater than 1 ton per year. *See* 75 FR 71033 (November 22, 2010). In October 2010, nonattainment designations were issued for 16 areas where the existing lead monitoring network indicated violations of the 2008 lead NAAQS. Designations were completed for all remaining areas of the U.S. in October 2011.<sup>1</sup> *See* 76 FR 72097 (November 22, 2011).
- **2008 Ozone NAAQS:** The March 2010 designations deadline was extended until March 2011 for the entire country because EPA announced in September 2009 an intention to reconsider the 0.075 ppm standard that had been established in 2008. *See* 75 FR 2936 (January 19, 2010). In that action, EPA stated that it had insufficient information to promulgate the designations because of the significant uncertainty that the reconsideration proposal created regarding the continued applicability of the 2008 ozone NAAQS. In September 2011, EPA announced that the reconsideration would not be completed, and implementation of the 2008 NAAQS would move forward. A deadline suit from public health and environmental groups followed, and litigants agreed to settle on a May 31, 2012, deadline. The Administrator issued ozone designations for the entire country in the spring of 2012. *See* 77 FR 30087 (May 21, 2012) and 77 FR 34221 (June 11, 2012). At the same time EPA issued the designations, EPA issued the rule establishing the method of classification for areas for the 2008 ozone NAAQS. *See* 77 FR 30160 (May 21, 2012).

<sup>1</sup> The form of the lead standard requires as few as 3 months of monitoring data in order to determine an area is out of compliance. States had established new monitoring networks starting in 2010 for sources of lead required by EPA regulations to be monitored. This allowed additional monitoring data to be gathered for calendar year 2010 and the beginning of 2011 to inform designations for the remainder of the country.

## RECENT HISTORY OF 1-YEAR DESIGNATIONS EXTENSIONS

- **2012 PM<sub>2.5</sub> NAAQS:** The December 2014 designations deadline was extended until December 2015 for several areas of the country pending a review of state monitoring network data quality procedures. *See* 80 FR 2206 (January 15, 2015) and 80 FR 18535 (April 7, 2015). Specifically, PM<sub>2.5</sub> monitoring data for 2011 and 2012 from some areas in Georgia, and throughout the entire states of Tennessee and Florida were incomplete due to quality assurance failures. Complete data became available in the remaining areas of Georgia and most of Florida by the end of calendar year 2015, and in August 2016 the EPA issued designations for these areas. *See* 81 FR 61136 (September 6, 2016 – areas in GA and FL). Although past the statutory extension deadline, at the end of calendar year 2016 complete data became available for the state of Tennessee, and the EPA is currently preparing to issue the designations for this state in 2017. Once the Tennessee designations are finalized, there will remain only 5 counties in Florida that are undesignated for the 2012 PM<sub>2.5</sub> NAAQS.
- **2010 SO<sub>2</sub> NAAQS:** The June 2012 designations deadline was extended until June 2013 for the entire country by EPA due to “significant uncertainty,” citing the need to resolve the approach for SO<sub>2</sub> implementation, including a comprehensive SO<sub>2</sub> air quality assessment strategy. *See* 78 FR 47191 (August 5, 2013). In August 2013, the Administrator issued nonattainment designations for 29 areas where the existing SO<sub>2</sub> monitoring network indicated violations of the revised SO<sub>2</sub> NAAQS, and further deferred designations for the remainder of the country pending the EPA’s effort to finalize a comprehensive SO<sub>2</sub> air quality assessment strategy. Under the terms of a settlement to a deadline suit brought by environmental groups, the Administrator issued designations for 65 additional areas in 2016. *See* 81 FR 45039 (July 12, 2016) and 81 FR 89870 (December 13, 2016). Under the terms of the settlement, the Administrator is required to issue designations for most of the remainder of the U.S. by the end of 2017, and the remaining areas by the end of 2020.
- **2008 Lead NAAQS:** The October 2010, designations deadline was extended until October 2011, for most of the country to enable states to finish establishing a new network of lead monitors required for sources of lead emissions greater than 1 ton per year. *See* 75 FR 71033 (November 22, 2010). In October 2010, nonattainment designations were issued for 16 areas where the existing lead monitoring network indicated violations of the 2008 lead NAAQS. Designations were completed for all remaining areas of the U.S. in October 2011.<sup>1</sup> *See* 76 FR 72097 (November 22, 2011).
- **2008 Ozone NAAQS:** The March 2010 designations deadline was extended until March 2011 for the entire country because EPA announced in September 2009 an intention to reconsider the 0.075 ppm standard that had been established in 2008. *See* 75 FR 2936 (January 19, 2010). In that action, EPA stated that it had insufficient information to promulgate the designations because of the significant uncertainty that the reconsideration proposal created regarding the continued applicability of the 2008 ozone NAAQS. In September 2011, EPA announced that the reconsideration would not be completed, and implementation of the 2008 NAAQS would move forward. A deadline suit from public health and environmental groups followed, and litigants agreed to settle on a May 31, 2012, deadline. The Administrator issued ozone designations for the entire country in the spring of 2012. *See* 77 FR 30087 (May 21, 2012) and 77 FR 34221 (June 11, 2012). At the same time EPA issued the designations, EPA issued the rule establishing the method of classification for areas for the 2008 ozone NAAQS. *See* 77 FR 30160 (May 21, 2012).

<sup>1</sup> The form of the lead standard requires as few as 3 months of monitoring data in order to determine an area is out of compliance. States had established new monitoring networks starting in 2010 for sources of lead required by EPA regulations to be monitored. This allowed additional monitoring data to be gathered for calendar year 2010 and the beginning of 2011 to inform designations for the remainder of the country.



**To:** Lipshultz, Jon (ENRD)[Jon.Lipshultz@usdoj.gov]  
**From:** Smith, Kristi  
**Sent:** Mon 7/10/2017 9:50:44 PM  
**Subject:** RE: Petition for stay of ozone designations delay action  
FR notice - 2015 ozone designation extension - 82 FR 29246.pdf

FR Notice attached

Example of letter sent to governors: <https://www.epa.gov/ozone-designations/administrator-extends-deadline-area-designations-2015-ozone-standards>

Press Release: <https://www.epa.gov/newsreleases/epa-extend-deadline-2015-ozone-naaqs-area-designations>

Kristi M. Smith \* Assistant General Counsel for the NAAQS Implementation Group \* Air & Radiation Law Office \* US EPA, Office of General Counsel \* [smith.kristi@epa.gov](mailto:smith.kristi@epa.gov) \* (202) 564-3068 \*

CONFIDENTIAL communication for internal deliberations only; may contain deliberative, attorney-client, attorney work product, or otherwise privileged material; do not distribute outside EPA or DOJ.

**From:** Lipshultz, Jon (ENRD) [<mailto:Jon.Lipshultz@usdoj.gov>]  
**Sent:** Monday, July 10, 2017 3:45 PM  
**To:** Smith, Kristi <[Smith.Kristi@epa.gov](mailto:Smith.Kristi@epa.gov)>  
**Subject:** RE: Petition for stay of ozone designations delay action

Thanks. Yes, in fact Seth Johnson just called to give me a heads up that they intend to file a petition for review along with a motion for a stay pending review or summary vacatur on Wednesday. I am a little tied up at the moment but perhaps we can chat about this a little tomorrow.

**From:** Smith, Kristi [<mailto:Smith.Kristi@epa.gov>]  
**Sent:** Monday, July 10, 2017 3:42 PM  
**To:** Lipshultz, Jon (ENRD) <[JLipshultz@ENRD.USDOJ.GOV](mailto:JLipshultz@ENRD.USDOJ.GOV)>  
**Subject:** Fwd: Petition for stay of ozone designations delay action

Jack -

Just realized we didn't send this to you in Thursday. Petitioners are seeking an administrative stay of the extension of the ozone designations. See Karen's summary below.

They've asked for a response by tomorrow, so we anticipate a stay petition in court will be coming soon. We're meeting with senior decision makers today to discuss possible path forward. I'll give you an update once I have one.

- Kristi

Kristi M. Smith \* Assistant General Counsel for the NAAQS Implementation Group \* Air & Radiation Law Office \* US EPA, Office of General Counsel \* [smith.kristi@epa.gov](mailto:smith.kristi@epa.gov) \* (202) 564-3068\*

CONFIDENTIAL communication for internal deliberations only; may contain deliberative, attorney-client, attorney work product, or otherwise privileged material; do not distribute outside EPA or DOJ.

Begin forwarded message:

Several environmental groups filed a petition with the Administrator on July 5, asking that the Agency immediately stay, pending judicial review, the effectiveness of EPA's extension of the deadline to promulgate initial area designations for the 2015 ozone NAAQS. The petitioners allege that the Agency's decision to delay designations does not comply with Clean Air Act requirements and is irrational. The petitioners present a 4-part analysis of why a stay of the designations delay is warranted, specifically because (1) they are likely to prevail on the merits in an underlying challenge to the designations delay; (2) they will suffer irreparable harm without a stay; (3) a stay will not substantially harm other parties; and (4) the public interest favors a stay.

First, the petitioners state they are likely to prevail on the merits on a challenge to

the Agency's 1-year delay of the deadline to make initial area designations because our rationale for delaying designations "is untethered from statutory considerations, unexplained, and baseless." Petitioners argue that the only factors relevant for EPA to justify an extension of the designation deadline relate to information about air quality conditions and areas that contribute to harmful quality, yet EPA did not cite these factors in justifying the delay. Petitioners allege that the factors EPA does cite (ongoing consideration of the 2015 standard, further analysis of background and international contributions to ozone pollution, analysis of exception events demonstrations) do not relate to the statutory standard of having "insufficient information" to proceed with initial area designations. Petitioners also argue that EPA has not explained how the information the Agency has is insufficient to make designations, noting in particular that international transport and background ozone relate to implementation of the standard, not designations, and such lack of explanation makes the delay arbitrary. Petitioners make additional allegations, including that EPA has not explained why it needs a full year delay (as opposed to a shorter delay) and why it cannot make designations for some areas, even if information is insufficient to designate parts of the country (e.g. locations most strongly influence by background ozone).

Second, petitioners explain that they will be irreparably harmed if the delay in designations is not stayed because a delay in designations results in a delay of pollution controls, state planning, and attainment deadlines, all of which will result in myriad adverse health and environmental impacts. Third, petitioners allege that granting a stay will not harm other parties because EPA, states, and industry cannot be cognizably harmed by having to comply with the ozone implementation program Congress enacted. Fourth, petitioners attest that the public interest favors staying the designations delay because EPA has projected (in the rulemaking setting the 2015 ozone NAAQS) that compliance with the 2015 standards will realize significant health benefits.

The petitioners state that they intend to file a petition for review of our final action in the D.C. Circuit shortly and to seek a stay from the Court, and accordingly ask that we respond to their request by 6:00 p.m. on July 11, regarding whether the Agency will grant their requested stay.

---

**From:** Seth Johnson <[sjohnson@earthjustice.org](mailto:sjohnson@earthjustice.org)>  
**Sent:** Wednesday, July 5, 2017 6:45 PM  
**To:** Pruitt, Scott

**Cc:** Scott, Denise; Minoli, Kevin

**Subject:** Petition for stay of ozone designations delay action

Dear Administrator Pruitt:

Attached please find a petition to stay, pending judicial review, the effectiveness of the final action taken by EPA extending the deadline for promulgating initial area designations for the 2015 ozone national ambient air quality standards ("designations delay"), announced in letters to state governors dated June 6, 2017, e.g., Letter from Scott Pruitt, Adm'r, EPA, to Doug Ducey, Gov. of Ariz., at 1, *available at* [https://www.epa.gov/sites/production/files/2017-06/documents/az\\_ducey\\_6-6-17.pdf](https://www.epa.gov/sites/production/files/2017-06/documents/az_ducey_6-6-17.pdf) ("EPA Delay Letter"), and in a Federal Register notice published at 82 FR 29,246 (June 28, 2017) ("Second Announcement") and titled "Extension of Deadline for Promulgating Designations for the 2015 Ozone National Ambient Air Quality Standards."

Sincerely,

Seth Johnson

Seth Johnson

Staff Attorney

Earthjustice Washington, DC, Office

1625 Massachusetts Ave., NW, Ste. 702

Washington, DC 20036

T: 202.667.4500 x5245 or 202.797.5245

F: 202.667.2356

[earthjustice.org](http://earthjustice.org)



*The information contained in this email message may be privileged, confidential and protected from disclosure.*

*If you are not the intended recipient, any dissemination, distribution or copying is strictly prohibited.*

*If you think that you have received this email message in error, please notify the sender by reply email and delete the message and any attachments.*

withdrawn or denied. The proceeds of any such fees will be used to pay the remaining portion of the Agency's cost of providing credit assistance and the costs of retaining expert firms, including financial, engineering, and legal services, in the field of municipal and project finance, to assist in the underwriting of the Federal credit instrument. All of, or a portion of, this fee may be waived.

(d) *Servicing fee.* EPA will require borrowers to pay a servicing fee for each credit instrument approved for funding. Separate fees may apply for each type of credit instrument (e.g., a loan guarantee, a secured loan with a single disbursement, or a secured loan with multiple disbursements), depending on the costs of servicing the credit instrument as determined by the Administrator. Such fees will be set at a level sufficient to enable the EPA to recover all or a portion of the costs to the Federal Government of servicing WIFIA credit instruments.

(e) *Optional supplemental fee.* If, in any given year, there is insufficient budget authority to fund the credit instrument for a qualified project that has been selected to receive assistance under WIFIA, EPA and the approved applicant may agree upon a supplemental fee to be paid by or on behalf of the approved applicant at the time of execution of the term sheet to reduce the subsidy cost of that project. No such fee may be included among eligible project costs.

(f) *Reduced fees.* To the extent that Congress appropriates funds in any given year beyond those sufficient to cover internal administrative costs, EPA may utilize such appropriated funds to reduce fees that would otherwise be charged under paragraph (c) of this section.

(g) *Extraordinary expenses.* EPA may require payment in full by the borrower of additional fees, in an amount determined by EPA, and of related fees and expenses of its independent consultants and outside counsel, to the extent that such fees and expenses are incurred directly by EPA and to the extent such third parties are not paid directly by the borrower, in the event that a borrower experiences difficulty relating to technical, financial, or legal matters or other events (e.g., engineering failure or financial workouts) which require EPA to incur time or expenses beyond standard monitoring.

[FR Doc. 2017-13438 Filed 6-27-17; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR PART 81

[EPA-HQ-OAR-2017-0223; FRL-9964-37-OAR]

#### Extension of Deadline for Promulgating Designations for the 2015 Ozone National Ambient Air Quality Standards

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Extension of deadline for promulgating designations.

**SUMMARY:** The Environmental Protection Agency (EPA) is announcing that it is using its authority under the Clean Air Act (CAA) to extend by 1 year the deadline for promulgating initial area designations for the ozone national ambient air quality standards (NAAQS) that were promulgated in October 2015. The new deadline is October 1, 2018.

**DATES:** The deadline for the EPA to promulgate initial designations for the 2015 ozone NAAQS is October 1, 2018.

**FOR FURTHER INFORMATION CONTACT:** For questions regarding this action, contact Denise Scott, Air Quality Planning Division, Office of Air Quality Planning and Standards, Mail Code C539-04, Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-4208; email address: [scott.denise@epa.gov](mailto:scott.denise@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

###### A. Does this action apply to me?

Entities potentially affected by this action include state, local and tribal governments that would participate in the initial area designation process for the 2015 ozone standards.

###### B. Where can I get a copy of this document and other related information?

The EPA has established a docket for designations for the 2015 ozone NAAQS under Docket ID No. EPA-HQ-OAR-2017-0223. All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [http://](http://www.regulations.gov)

[www.regulations.gov](http://www.regulations.gov) or in hard copy at the EPA Docket Center EPA/DC, EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the EPA Docket Center is (202) 566-1742.

An electronic copy of this notice is also available at <http://www.epa.gov/ozone-designations> along with other information related to designations for the 2015 ozone NAAQS.

##### II. Designations Requirements

On October 1, 2015, the EPA signed a notice of final rulemaking that revised the 8-hour primary and secondary ozone NAAQS (80 FR 65292; October 26, 2015). The primary standard was lowered from 0.075 parts per million (ppm) to a level of 0.070 ppm. The EPA also revised the secondary standard by making it identical in all respects to the revised primary standard. (The previous ozone NAAQS were set in 2008 and remain effective.)

After the EPA establishes or revises a NAAQS pursuant to CAA section 109, the CAA directs the EPA and the states to begin taking steps to ensure that those NAAQS are met. The first step is to identify areas of the country that do not meet the new or revised NAAQS. This step is known as the initial area designations. Section 107(d)(1)(A) of the CAA provides that, "By such date as the Administrator may reasonably require, but not later than 1 year after promulgation of a new or revised national ambient air quality standard for any pollutant under section [109], the Governor of each State shall \* \* \* submit to the Administrator a list of all areas (or portions thereof) in the State" that designates those areas as nonattainment, attainment, or unclassifiable. The CAA defines an area as nonattainment if it is violating the NAAQS or if it is contributing to a violation in a nearby area. 42 U.S.C. 7407(d)(1)(A)(i).

The CAA further provides, "Upon promulgation or revision of a national ambient air quality standard, the Administrator shall promulgate the designations of all areas (or portions thereof) \* \* \* as expeditiously as practicable, but in no case later than 2 years from the date of promulgation of the new or revised national ambient air quality standard. Such period may be extended for up to one year in the event the Administrator has insufficient information to promulgate the

designations.” 42 U.S.C. 7407(d)(1)(B)(i).

After the states submit their recommendations, but no later than 120 days prior to promulgating designations, the EPA is required to notify a state of any intended modifications to the state’s recommended designation. The state then has an opportunity to demonstrate why any proposed modification is inappropriate. Whether or not a state provides a recommendation, the EPA must promulgate the designation that the agency deems appropriate within 2 years of promulgation of the NAAQS (or within 3 years if the EPA extends the deadline).

For the 2015 ozone NAAQS, the deadline for states to submit designation recommendations to the EPA for their areas was October 1, 2016. The EPA has been evaluating these recommendations and conducting additional analyses to determine whether it is necessary to modify any of the state recommendations.

### **III. Extension of Deadline for Promulgating Designations for the 2015 NAAQS**

In this action, the EPA is announcing that it is using its authority under

section 107(d)(1)(B)(i) of the CAA to extend by 1 year the deadline for promulgating initial area designations for the 2015 ozone NAAQS. The new deadline is October 1, 2018. For the reasons explained in this notice, the EPA Administrator has determined that there is insufficient information to complete the designations by October 1, 2017.

Following the recent change in administrations, the agency is currently evaluating a host of complex issues regarding the 2015 ozone NAAQS and its implementation, such as understanding the role of background ozone levels and appropriately accounting for international transport. The Administrator has determined that he cannot assess whether he has the necessary information to finalize designations until additional analyses from this evaluation are available. In addition, pursuant to language in the recently-enacted Fiscal Year 2017 omnibus bill, the Administrator is establishing an Ozone Cooperative Compliance Task Force to develop additional flexibilities for states to comply with the ozone standard. It is possible the outcome of that effort could identify flexibilities that could impact

the designations process. In light of the analyses currently underway at the agency, the Administrator has determined he needs additional time to consider completely all designation recommendations provided by state governors pursuant to CAA section 107(d)(1)(A), including full consideration of exceptional events impacting designations, and determine whether they provide sufficient information to finalize designations. We also note that new agency officials are currently reviewing the 2015 ozone NAAQS rule. The Administrator has determined that in light of the uncertainty of the outcome of that review, there is insufficient information to promulgate designations by October 1, 2017.

### **List of Subjects in 40 CFR Part 81**

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: June 21, 2017.

**E. Scott Pruitt,**  
*Administrator.*

[FR Doc. 2017–13437 Filed 6–27–17; 8:45 am]

BILLING CODE 6560–50–P

**To:** Knapp, Kristien[Knapp.Kristien@epa.gov]; Lewis, Josh[Lewis.Josh@epa.gov]  
**From:** Smith, Kristi  
**Sent:** Wed 8/2/2017 10:11:41 PM  
**Subject:** RE: Signed - Ozone Extension Withdrawal

Kristien & Josh –

Thanks for getting this over the finish line and getting a copy to us. We're sending to DOJ now.

Also, do you know if/when we'll have this up on the web and/or if there are press talking points to share? Reg. 6 is at a "superconference" with state & industry reps today and tomorrow, and it's possible they might get questions about this, so I'd like to share with them if possible.

- Kristi

Kristi M. Smith \* Assistant General Counsel for the NAAQS Implementation Group \* Air & Radiation Law Office \* US EPA, Office of General Counsel \* smith.kristi@epa.gov \* (202) 564-3068 \*

CONFIDENTIAL communication for internal deliberations only; may contain deliberative, attorney-client, attorney work product, or otherwise privileged material; do not distribute outside EPA or DOJ.

**From:** Knapp, Kristien

**Sent:** Wednesday, August 02, 2017 5:57 PM

**To:** Flynn, Mike <Flynn.Mike@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Graham, Amy <graham.amy@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Reeder, John <Reeder.John@epa.gov>; Brown, Byron <brown.byron@epa.gov>

**Cc:** Grantham, Nancy <Grantham.Nancy@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>; Hull, George <Hull.George@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>; Burden, Susan <Burden.Susan@epa.gov>; Owens, Nicole <Owens.Nicole@epa.gov>; Rees, Sarah <rees.sarah@epa.gov>; Smith, Kristi <Smith.Kristi@epa.gov>; Bianco, Karen <Bianco.Karen@epa.gov>; Nickerson, William



<Nickerson.William@epa.gov>; Curry, Bridgid <Curry.Bridgid@epa.gov>  
**Subject:** Signed - Ozone Extension Withdrawal

A Federal Register notice announcing a withdrawal of the 1-year extension of the deadline for promulgating initial area designations for the ozone national ambient air quality standards was signed today. A copy of the signed notice is attached. Please let me know if you have any questions.

Thanks,

Kristien

Kristien Knapp

Special Assistant (OAR, OITA, OGC, OP)

Office of the Administrator

(202) 564-3277

**To:** Anna Wood[Wood.Ann@epa.gov]; Scott Mathias[Mathias.Scott@epa.gov]; Oldham, Carla[Oldham.Carla@epa.gov]  
**Cc:** Tierney, Jan[tierney.jan@epa.gov]; Bianco, Karen[Bianco.Karen@epa.gov]  
**From:** Smith, Kristi  
**Sent:** Thur 7/27/2017 9:47:17 PM  
**Subject:** revised clean versions of FR & key points  
[Key Messages on Notice-withdraw extension of O3D deadline 7-27-17 PM Clean.docx](#)  
[Notice-withdraw extension of O3D deadline 7-27-17 PM CLEAN draft.docx](#)

Here are clean versions of both documents. I'm off to a hair appt but will have my phone with me for urgent matters.

Thanks for all the hard work on trying to get a document without clear guidance.

- Kristi

Kristi M. Smith \* Assistant General Counsel for the NAAQS Implementation Group \* Air & Radiation Law Office \* US EPA, Office of General Counsel \* smith.kristi@epa.gov \* (202) 564-3068 \*

CONFIDENTIAL communication for internal deliberations only; may contain deliberative, attorney-client, attorney work product, or otherwise privileged material; do not distribute outside EPA or DOJ.

**To:** Dunham, Sarah[Dunham.Sarah@epa.gov]; Wood, Anna[Wood.Anna@epa.gov]; Koerber, Mike[Koerber.Mike@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]; Orlin, David[Orlin.David@epa.gov]; Minoli, Kevin[Minoli.Kevin@epa.gov]; Gunasekara, Mandy[Gunasekara.Mandy@epa.gov]; Bianco, Karen[Bianco.Karen@epa.gov]; Tierney, Jan[tierney.jan@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Lewis, Josh[Lewis.Josh@epa.gov]; Schwab, Justin[schwab.justin@epa.gov]; Williams, Melina[Williams.Melina@epa.gov]; Mathias, Scott[Mathias.Scott@epa.gov]; Baptist, Erik[baptist.erik@epa.gov]; Page, Steve[Page.Steve@epa.gov]  
**From:** Smith, Kristi  
**Sent:** Fri 7/14/2017 6:26:00 PM  
**Subject:** Materials -- re: Follow-up ozone extension discussion with Kevin Minoli  
[Designations delay Briefing Sheet 7.13.17.docx](#)  
[Recent Designation Extensions.docx](#)  
[Designations Process Generally.docx](#)  
[Ozone Extension Stay Response – Strawman schedule.docx](#)

...

I updated the invite for the afternoon meeting with the briefing materials, and I'm also attaching them here.

There are 4 papers:

- 1) Main briefing paper on overall options for moving forward
- 2) Recent designation extensions (excerpt from a prior OAQPS briefing paper)
- 3) Overview of the designations process generally
- 4) Strawman proposal on timing of EPA action based on the deadline for the EPA response in the stay litigation

Kristi M. Smith \* Assistant General Counsel for the NAAQS Implementation Group \* Air & Radiation Law Office \* US EPA, Office of General Counsel \* smith.kristi@epa.gov \* (202) 564-3068 \*

CONFIDENTIAL communication for internal deliberations only; may contain deliberative, attorney-client, attorney work product, or otherwise privileged material; do not distribute outside EPA or DOJ.

## Designation Process Generally

- Under CAA § 107(d), designations are established through cooperative process with the states.
  - For ozone, EPA has established the parameters of that process – including the information necessary to designate areas – in:
    - 40 CFR Part 50, Appendix U (promulgated with the 2015 ozone NAAQS): addressing monitoring data, and
    - EPA’s 2015 ozone designation guidance (issued Feb. 2016): addressing the analysis to determine nearby areas contributing to nonattainment.
- Not later than 1 year after NAAQS are promulgated, States provide designation recommendations.
  - States recommend both (1) designation status and (2) boundaries of the areas.
- EPA evaluates the state information.
  - If EPA intends to promulgate a designation different from a state’s recommendation (either status or boundaries), then the CAA requires EPA to:
    - notify the state at least 120 days prior to promulgating the final designation and
    - provide the state an opportunity to comment on the intended modification.
  - EPA usually fulfills this obligation through “120 day letters” to governors with accompanying Technical Support Documents (TSDs) for areas EPA intends to designate as nonattainment and an FR Notice.
    - Although required to send 120 day letters only to states with which we disagree with the recommendation and allow them to comment, we generally
      - send them to all states and
      - provide general public notice and comment (CAA § 107(d)(2)(B) provides that designation actions “shall not be subject to the [APA notice and comment] provisions, except nothing herein shall be construed as precluding such public notice and comment whenever possible”).
- Not later than 2 years after NAAQS are promulgated, EPA considers any information submitted by states and public comments and issues final designations.
  - The Administrator can extend the deadline by one year if there is “insufficient information to promulgate the designations” (CAA § 107(d)(1)(B)(i)).
  - At the time of final designations, EPA also issues final TSDs.
  - For ozone, at the time of final designations, areas are classified by operation of law based on a separate classification rule interpreting how the statutory classifications in CAA § 181(a)(1) will apply for the relevant NAAQS.
    - Classifications are marginal, moderate, serious, severe, and extreme, and are based on level of ozone pollution above the NAAQS with successively later attainment dates for each higher classification.
    - The classification rule needs to be issued no later than the date of the final designations.

## Ozone Extension Stay Response – Strawman schedule

July 14 – Briefing on procedural options moving forward

July 18 – Briefing on “insufficient information”

July 19 - Decision made on path forward

[4 days for staff-level drafting, seeking of additional information from management as needed, and review through mid-level management]

July 25 – To OAR IO/OGC IO for review (1 day, including incorporating comments into clean draft)

July 26 – To OP for review (1 day)

July 27 – To OEX for review (1 day)

### **July 28 – Signature**

July 31 – DOJ response to stay motion due\*

\*assumes a 7-day extension from our current response date (July 24).

## RECENT HISTORY OF 1-YEAR DESIGNATIONS EXTENSIONS

- **2012 PM<sub>2.5</sub> NAAQS:** The December 2014 designations deadline was extended until December 2015 for several areas of the country pending a review of state monitoring network data quality procedures. *See* 80 FR 2206 (January 15, 2015) and 80 FR 18535 (April 7, 2015). Specifically, PM<sub>2.5</sub> monitoring data for 2011 and 2012 from some areas in Georgia, and throughout the entire states of Tennessee and Florida were incomplete due to quality assurance failures. Complete data became available in the remaining areas of Georgia and most of Florida by the end of calendar year 2015, and in August 2016 the EPA issued designations for these areas. *See* 81 FR 61136 (September 6, 2016 – areas in GA and FL). Although past the statutory extension deadline, at the end of calendar year 2016 complete data became available for the state of Tennessee, and the EPA is currently preparing to issue the designations for this state in 2017. Once the Tennessee designations are finalized, there will remain only 5 counties in Florida that are undesignated for the 2012 PM<sub>2.5</sub> NAAQS.
- **2010 SO<sub>2</sub> NAAQS:** The June 2012 designations deadline was extended until June 2013 for the entire country by EPA due to “significant uncertainty,” citing the need to resolve the approach for SO<sub>2</sub> implementation, including a comprehensive SO<sub>2</sub> air quality assessment strategy. *See* 78 FR 47191 (August 5, 2013). In August 2013, the Administrator issued nonattainment designations for 29 areas where the existing SO<sub>2</sub> monitoring network indicated violations of the revised SO<sub>2</sub> NAAQS, and further deferred designations for the remainder of the country pending the EPA’s effort to finalize a comprehensive SO<sub>2</sub> air quality assessment strategy. Under the terms of a settlement to a deadline suit brought by environmental groups, the Administrator issued designations for 65 additional areas in 2016. *See* 81 FR 45039 (July 12, 2016) and 81 FR 89870 (December 13, 2016). Under the terms of the settlement, the Administrator is required to issue designations for most of the remainder of the U.S. by the end of 2017, and the remaining areas by the end of 2020.
- **2008 Lead NAAQS:** The October 2010, designations deadline was extended until October 2011, for most of the country to enable states to finish establishing a new network of lead monitors required for sources of lead emissions greater than 1 ton per year. *See* 75 FR 71033 (November 22, 2010). In October 2010, nonattainment designations were issued for 16 areas where the existing lead monitoring network indicated violations of the 2008 lead NAAQS. Designations were completed for all remaining areas of the U.S. in October 2011.<sup>1</sup> *See* 76 FR 72097 (November 22, 2011).
- **2008 Ozone NAAQS:** The March 2010 designations deadline was extended until March 2011 for the entire country because EPA announced in September 2009 an intention to reconsider the 0.075 ppm standard that had been established in 2008. *See* 75 FR 2936 (January 19, 2010). In that action, EPA stated that it had insufficient information to promulgate the designations because of the significant uncertainty that the reconsideration proposal created regarding the continued applicability of the 2008 ozone NAAQS. In September 2011, EPA announced that the reconsideration would not be completed, and implementation of the 2008 NAAQS would move forward. A deadline suit from public health and environmental groups followed, and litigants agreed to settle on a May 31, 2012, deadline. The Administrator issued ozone designations for the entire country in the spring of 2012. *See* 77 FR 30087 (May 21, 2012) and 77 FR 34221 (June 11, 2012). At the same time EPA issued the designations, EPA issued the rule establishing the method of classification for areas for the 2008 ozone NAAQS. *See* 77 FR 30160 (May 21, 2012).

<sup>1</sup> The form of the lead standard requires as few as 3 months of monitoring data in order to determine an area is out of compliance. States had established new monitoring networks starting in 2010 for sources of lead required by EPA regulations to be monitored. This allowed additional monitoring data to be gathered for calendar year 2010 and the beginning of 2011 to inform designations for the remainder of the country.

**To:** Tierney, Jan[tierney.jan@epa.gov]  
**From:** Bianco, Karen  
**Sent:** Mon 7/17/2017 8:14:15 PM  
**Subject:** FW: O3D - Insufficient Info Briefing 7-17-2017.docx  
O3D - Insufficient Info Briefing 7-17-2017.docx

::

Jan, attached is OAQPS's first cut at the briefing document for our political level briefing Thursday (and to be used at tomorrow's pre-brief with Sarah). Aside from noting the length, which seems inappropriate for an hour long conversation, I have not had a chance to review this. I'm hoping you and I can do so in parallel to get them some feedback before the pre-brief tomorrow.

**From:** Mathias, Scott  
**Sent:** Monday, July 17, 2017 2:01 PM  
**To:** Bianco, Karen  
**Cc:** Jones, Rhea ; Scott, Denise ; Oldham, Carla ; Perlmutter, Lars ; Gabrilovich, Lev  
**Subject:** O3D - Insufficient Info Briefing 7-17-2017.docx  
**Importance:** High

Karen,

See attached draft. The OGC section is currently blank. Looks like we're briefing Page at 4 pm today, and the Sarah briefing is now tomorrow at 9:30. Please review/comment and add your section. We don't expect a polished product, but it would be good for Steve to see it today.

Scott

**To:** Bianco, Karen[Bianco.Karen@epa.gov]; Smith, Kristi[Smith.Kristi@epa.gov]; Tierney, Jan[tierney.jan@epa.gov]  
**From:** Mathias, Scott  
**Sent:** Mon 7/17/2017 10:02:42 PM  
**Subject:** FW: Updated O3D extension briefing  
O3D - Insufficient Info Briefing v2 7-17-2017.docx

....

Here's where OAQPS is at the moment. Your section is now section V, and can include your assessment of risks associated with any of the policy ideas being presented.

**Scott Mathias | Associate Director, Air Quality Policy Division | U.S. EPA, RTP, NC 27711 | 919.541.5310**

**From:** Mathias, Scott  
**Sent:** Monday, July 17, 2017 6:02 PM  
**To:** Koerber, Mike ; Wood, Anna ; Page, Steve  
**Subject:** Updated O3D extension briefing

See attached.

**Scott Mathias | Associate Director, Air Quality Policy Division | U.S. EPA, RTP, NC 27711 | 919.541.5310**



**To:** Smith, Kristi[Smith.Kristi@epa.gov]  
**Cc:** Tierney, Jan[tierney.jan@epa.gov]  
**From:** Bianco, Karen  
**Sent:** Tue 7/18/2017 12:43:41 AM  
**Subject:** RE: Updated O3D extension briefing  
O3D - Insufficient Info Briefing v2 7-17-2017 +kbb.docx

.....  
>>>>

Attached is my markup. I believe Jan is planning to add her markup onto this draft early tomorrow morning (around 8). Kristi, if you're providing any input at this stage, it'd be helpful to have your markup tonight so that Jan can add to it. otherwise, it might be worth just waiting to see whatever draft evolves after the pre-brief with Sarah tomorrow.

**From:** Bianco, Karen  
**Sent:** Monday, July 17, 2017 7:19 PM  
**To:** Smith, Kristi  
**Subject:** Fwd: Updated O3D extension briefing

This is the latest. I'm planning to review later tonight and could give you a version with my markup by around 9.

Sent from my iPhone

Begin forwarded message:

**From:** "Mathias, Scott" <Mathias.Scott@epa.gov>  
**Date:** July 17, 2017 at 6:02:42 PM EDT  
**To:** "Bianco, Karen" <Bianco.Karen@epa.gov>, "Smith, Kristi" <Smith.Kristi@epa.gov>, "Tierney, Jan" <tierney.jan@epa.gov>  
**Subject:** FW: Updated O3D extension briefing

Here's where OAQPS is at the moment. Your section is now section V, and can include your assessment of risks associated with any of the policy ideas being presented.

**Scott Mathias | Associate Director, Air Quality Policy Division | U.S. EPA, RTP, NC**  
**27711 | 919.541.5310**

**From:** Mathias, Scott  
**Sent:** Monday, July 17, 2017 6:02 PM  
**To:** Koerber, Mike <Koerber.Mike@epa.gov>; Wood, Anna <Wood.Anna@epa.gov>; Page, Steve <Page.Steve@epa.gov>  
**Subject:** Updated O3D extension briefing

See attached.

**Scott Mathias | Associate Director, Air Quality Policy Division | U.S. EPA, RTP, NC**  
**27711 | 919.541.5310**



**To:** Smith, Kristi[Smith.Kristi@epa.gov]; Bianco, Karen[Bianco.Karen@epa.gov]; Tierney, Jan[tierney.jan@epa.gov]  
**From:** Mathias, Scott  
**Sent:** Tue 7/18/2017 2:49:38 PM  
**Subject:** FW: O3 extension briefing - revised  
O3D - Insufficient Info Briefing v3 7-18-2017.docx

....  
,,,,

I haven't seen this go around yet, so I'm sending to you.

**Scott Mathias | Associate Director, Air Quality Policy Division | U.S. EPA, RTP, NC 27711 | 919.541.5310**

**From:** Mathias, Scott  
**Sent:** Tuesday, July 18, 2017 10:24 AM  
**To:** Koerber, Mike ; South, Peter  
**Subject:** O3 extension briefing - revised

Reflects input from OGC and AQAD staff.

**Scott Mathias | Associate Director, Air Quality Policy Division | U.S. EPA, RTP, NC 27711 | 919.541.5310**

**To:** Mathias, Scott[Mathias.Scott@epa.gov]  
**Cc:** Oldham, Carla[Oldham.Carla@epa.gov]; Jones, Rhea[Jones.Rhea@epa.gov]  
**From:** Tierney, Jan  
**Sent:** Thur 7/27/2017 2:16:04 PM  
**Subject:** RE: draft Withdrawal Notice - 1-yr O3D extension  
Notice-withdraw extension of O3D deadline 7-26-17 OAQPS draft ogc.doc

Scott –

Attached are a few edits on the draft you sent yesterday afternoon. Kristi and Karen will wait to review the new draft y'all plan to send later today.

Jan

**From:** Mathias, Scott  
**Sent:** Wednesday, July 26, 2017 4:38 PM  
**To:** Smith, Kristi <Smith.Kristi@epa.gov>; Bianco, Karen <Bianco.Karen@epa.gov>; Tierney, Jan <tierney.jan@epa.gov>  
**Cc:** Oldham, Carla <Oldham.Carla@epa.gov>; Jones, Rhea <Jones.Rhea@epa.gov>  
**Subject:** draft Withdrawal Notice - 1-yr O3D extension  
**Importance:** High

OGC Colleagues,

Attached is the OAQPS draft of the notice for your final review before we go through the final program office steps to get signature (including Action Memo, Fact Sheet, etc.). This version reflects Koerber's review. Please send any changes back to all the OAQPS people on this email. Thanks.

Scott Mathias | Associate Director, Air Quality Policy Division | U.S. EPA, RTP, NC 27711 | 919.541.5310